United States Court of Appeals for the Second Circuit

EXHIBITS

77-7145

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

No. 77-7145

THE GUARDIANS ASSOCIATION, et al.,

Plaintiffs-Appellees,

-against-

CIVIL SERVICE COMMISSION OF THE CITY OF NEW YORK, et al.,

Defendants-Appellants.

UNITED STATES COURT OF APPEALS
FILED
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A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

On Appeal From an Order of the
United States District Court
for the Southern District of New York

EXHIBITS OF PLAINTIFFS-APPELLEES

VOLUME II

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SOCIAL SCIENCE PART TWO - FINAL EXAM -

71. In the article "A Sketch of the Policeman's Working Personality:, the author's main contention regarding the police officer's working personality is that :

a. the elements of danger and authority bring about respect and community cohesiveness
b. the elements of suspiciousness and hypocrisy bring about social isolation and police solidarity
c. the elements of suspiciousness and hypocrisy bring about respect and community cohesiveness
d. the elements of danger and authority bring about social isolation and police solidarity
e. the elements of social isolation and police solidarity bring about danger and authority

72. According to the material "The New Role of Female Police Officers an important point for P.O. Mary Lane to keep in mind is: (Select the best answer)

a. Women can't drive RMP cars without power steering
b. The job should be done in exactly the same way by all police officers, male and female
c. The average female police officer should act in a "mother" role to avoid physical confrontations
d. To do the job right and not necessarily in the same way as a male
e. None of the above

73. Police Officer Strong, who has been with the Police Department for several years, has demonstrated an ability to make many good arrests, but seems to lack an understanding of the importance of properly handling people When issuing a summons for a moving violation, Officer Strong should realize that his job would be easier if he applied all of the following except:

a. ability to be tactful
b. display of patience
c. ability to hold an intellectual conversation
d. ability to be impartial
e. display of courtesy

74. According to the Article "Attitudes, a factor in police performance," prejudice is generally seen as:

a. An attitude about which one feels strongly
b. An attitude which we are somewhat indifferent to
c. An attitude which only a small minority of people possess
d. An attitude which public officials never have
e. None of the above

75. Discretion in police work is necessary for all of the following reasons except one. Select the <u>INCORRECT</u> reason:

a. full enforcement is not realistic or practical
b. Laws are sometimes written that are not intended by lawmakers to be enforced
c. A policy of discretion helps eliminate corruption
d. Outdated laws cannot be fully enforced
e. Laws are often written poorly

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a. there is little support from the alcoholic's family
b. No alcoholic wants to help himself
c. you can't cure an alcoholic personality
d. It involves a combination of physical, psychological, and socio-economic problems
e. None of the above

77. Just as norms influence our perception of a situation so do values. Select the incorrect statement regarding values.

a. Values cannot be tested or proven right or wrong from the individual standpoint
b. Values are durable, and remain stable from one situation to another
c. Values are the judgements that we make about the desireability or worth of a person, idea, feeling event or object
d. If we value a particular person, either because we like him or dislike him, he will tend to stand out in our perception
e. Values can shift over time or from one situation to another

78. P.O. Smith, while on foot patrol, notices a group of youths, under the age of 16, loitering in a candy store located near a school. As school is in session, P.O. Smith questions the youths as to why they are not in school. P.O. Smith prepares juvenile reports on the youths and returns them to the nearest school. P.O. Smith's actions are primarily intended to (Select the correct answer)

a. Prevent annoyance to passerby
b. Identify children who are actually or potenially delinquent
c. Avoid complaints by the candy store owner
d. Identify children who are doing poorly in school
e. All of the above

79. A parent speaks to you about the behavior of his child. The child is continually truant, engages in petty thefts within the house, comes home at late hours, will not listen to his parents and is generally uncontrollable. The parent asks your help. Your best action or advice is to:

a. prepare a juvenile report and print across the top " Person in Need of Supervision ".
b. if the problem is urgent, refer the parent to Criminal Court to seek a petition for "Person In Need of Supervision
c. Take the child to Family Court and obtain a court order
d. for a better understanding of the procedure, refer the parent to the Family Court Act
e. Advise the parent that the matter is a family problem and the police can do nothing

80. You are called to the home of an abused child. The parents admit the allegation of abuse. They state it is their right as a guardian and will beat the child again if they feel it necessary. They refuse to allow you, the police officer, to take the child from the home. Your best course of action is to:

a. Call the supervisor
b. Take the child out of the home
c. Go to Family Court and obtain a warrant
d. Ask the supervisor for a police officer to stand guard, preferably from the Youth Aid Division
e. Attempt to counsel both parents and child

81. If applied properly, a major benefit of Transactional Analysis in relation to police work would be (Select the best answer)

a. An increase in arrests made in family disputes
b. An increase in the number of human stress situations
c. Would help police officers make decisions more subjectively
d. Would help police officers understand themselves better as well as others
e. Would create a stronger authoritarian image to the public

82, A police officer has shot a teenage boy, There is a question as to the justification of the shooting. A large hostile crowd has gathered outside the station house. As a police officer, your advice is asked on how to best handle the situation. Having already read, "The Rumor Process", your advice should be to

a. Give the facts to the people as soon as possible even if some minor points are harmful to the police
b. Disperse the crowd without giving them any information, to avoid a riot
c. Allow the majority of the people into the station house to view the officer
d. Stall the crowd until every detail can be accurately checked to avoid half-truths
e. Immediately release a story favorable to the police and slanting unfavorable portions of the case to avoid a riot

83. Based on the article, "Explosive Words and Phrases," which of the following statements is <u>incorrect</u>.

a. Courtesy is a barrier-breaker and a bond-builder
b. In performing his duties, the police officer should be word conscious and meaning conscious
c. It is always acceptable to generalize because there is no way to avoid it
d. Discourtesy is a bond-breaker and a barrier-builder
e. In essence, the context in which a word is used determines its meaning

84. Advocates of legalized prostitution often minimize the moral and ethical problems associated with it. They consider prostitution a victimless crime because the participants are usually willing. Select the <u>incorrect</u> statement regarding prostitution:

a. If a lone hooker cannot be persuaded into working for a pimp, the pimp may resort to having the girl beaten
b. Commercial prostitution is not connected with organized crime
c. Many woman have been induced into becoming drug addicts to force them into prostitution
d. Many customers of prostitutes have ended up as victims of crime
e. Occasionally the prostitute is the subject of an assault by a customer who beats her "just for kicks".

85. Group environment is seen as having a profound influence on one's personality development. From the following choose the <u>incorrect</u> statement relative to group environment

a. Every individual belongs to a number of groups
b. Without group experience, normal personality would not develop
c. The greatest influence on one's personality comes in the early years
d. As we grow older, new experiences and new contacts tend to drastically alter one's personality
e. What we perceive today is seen in the light of what we learned yesterday

86. When handling the mentally ill, which would not be a good technique to use?

a. Talk to the person in an attempt to find out what is bothering him
b.. Don't give a violent person a chance to quiet down get' him to the hospital immediately
c. If possible, try to determine information to help deal with the patient
d. Try to get a friend of the patient to help by being present while handling the patient
e. Always be alert for danger, but don't outwardly express this attitude by being too defensive

87. As a Police Officer you have a great deal of discretion in dealing with juveniles. While on patrol you observe a male 15 years old throw a rock through a shopkeepers window. You as an officer may (Select the incorrect answer).

a. Dismiss the incident and return the juvenile to his parent with the approval of the shopkeeper
b. Force the youth's parent to pay for the broken window
c. Speak to the child and try to explain the seriousness of his action
d. Prepare a juvenile report thereby referring him to the appropiate juvenile authority
e. Notify his parent

88. As a police officer on patrol, you are called to a hospital to investigate a 10 year old victim of a sex attack. You should be aware of all the following, except:

a. It is of the utmost importance to get all the facts immediately (for possible arrests) regardless of the circumstances
b. A hysterical parent should be separtted from the child if possible

c. Future interviews will no doubt be needed since it is likely that little, if any, useful information can be obtained from a child during the initial period
d. A Juvenile report on the child must be prepared
e. A study shows that the effects of sexual relations to the child victim have at times been exaggerated

89. Police are often asked to exercise their supportive role. Select the choice which is not a reason for the above statement:

a. The police officer is on duty at times of the day when no other social agent is available
b. The Police Officer deals with the problems of the poor andignorant; problems other agencies are not anxious to handle
c. The poor and the ignorant use the police in the way that middle class people use family doctors and clergymen
d. The ordinary citizen has knowledge of, and access to very few other Government agents
e. The police often enforce unpopular laws

90. After a few years at his new assignment, P.O. Smith is beginning to show signs of romantic cynicism. This type of cynicism is most likely due to all of the following except:

a. Peer group pressure
b. Separation from his student officer friends
c. His refusal to go along with the practical way of doing things
d. Accepting the idea that to get ahead it depends on whom you know
e. Listens to officers who blame the system rather than themselves

91. Deviance can be defined as any behavior that violates the norms of a group. According to the Article "Behavior of Deviants in Group Situations," Select the incorrect statement relative to deviance.

a. Most deviant behavior is statistically abnormal
b. The consequences of deviant behavior are usually undesirable for the individual
c. What is considered deviant will not vary with time nor will it vary from one society to another
d. Both "good" and "bad" behavior can be considered deviant by the social scientist
e. Deviance is generally seen as threatening the group because it leads to unpredictability of behavior

92. In the article, "An Analysis of Role Conflict," the author states that the very environment of law enforcement produces role conflict. The difficulties of law enforcement stem from the functions the police serve in the legal system, and the necessity of accommodating the legal system to the features of a particular community. The author gives specific areas that cause this conflict. Of the following, select the choice that' does not cause this conflict.

a. Rights of the Individual vs the Protection of the Community from criminals
b. Hypothetical Actions vs Imaginary situations
c. Strict enforcement of all the laws vs discretion of the police officer
d. lack of uniformity among police agencies
e. unclear guidelines

93. According to the Article "Secrecy and the Police" all of the following are factors contributing to police secrecy except:

a. The fear of being ostracized by his fellow officers
b. The idea of it's "us" (the police) against "them" (the public)
c. The need to be independant because of the dangerous nature of the work
d. The unofficial sanctioning of cover-up by the brass
e. Instances of police brutality

94. Many homosexuals keep their sexual preferences a secret. According to the article "Homosexuality Society and the law," which is not one of the reasons given why homosexuals prefer tokeep their sexual preferences a secret.

a. to keep their jobs
b. they may become victims of blackmail
c. in order that their sexual activities flourish without police interference
d. to prevent being the possible victimes of a prejudiced society because the mores of society support heterosexual relationships
e. to prevent recognition by like minded individuals

95. A police officer like other people may make an error in judgement which might result in improper action. For example, you as a police officer see a man running down the street. You are more likely to stop this person if you judge him to be running from the commission of a crime rather than running for exercise. Inclinations to judge a situation one way rather than another are called biases. To insure correct assumptions or judgements of situations by police officers it is important that they be aware of biases that can affect their judgements. Of the following choices relating to biases, select the incorrect statement according to the article "Attributing Causation in Social Situations."

a. It is important that the police officer be placed in a pos-
b. ition to assume something rather than finding out the facts
b. People have a tendency to think that behavior they see at one time or in one situation, is the behavior that people usually exhibit, unless there are specific causes present. If there is a specific cause, the observer thinks is present, they may attribute the behavior to the external cause only.

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c. We generally judge a person on the basis of his behavior without knowing the cause of the behavior
d. Man has a need to compare himself to others; he utilizes the same attribution patterns to explain his behavior that he used for others
e. None of the above

96. When taking a mentally ill person into custody, which of the following actions would be least advisable for the police officer concerned to take (select the best answer?)

a. avoid abusive or threatening statements to the individual
b. attempt to keep excitement, on the part of crowds, other police officers, and others present, to a minimum
c. Realize that a mentally ill person is legally not responsible for his actions, thereby rendering the use of deadly physical force by the police officer illegal and immoral
d. Deception should not, except in extreme cases; be used when dealing with mentally ill persons.
e. Whenever possible, the time necessary for a proper situational appraisal and/or the arrival of assistance should be taken when dealing with mentally ill persons

97. Dealing with mentally ill people requires police officers to have some knowledge regarding the general terms used concerning mental illness. This generally helps to secure an objective approach to such situations. Regarding the terms neuroses and psychoses, the difference between the two is (select the best answer):

a. Neuroses generally grow into psychoses
b. Neuroses are overt behavior disorders and psychoses are abnormal ideas harbored by the mentally ill individual
c. Non-existent since both psychoses and neuroses are classified by the same "functional" psychiatric method
d. Extremely difficult to determine due to inherent similarities in identification procedures
e. Basically one of degree rather than type

98. Police officers are often called upon to handle mentally ill persons. Select the <u>incorrect</u> choice dealing with the subject of mental illness.

a. Because of the police officer's experience he is qualified to judge an individual "normal" or "abnormal"
b. The attitude that mental illness is considered a disgrace is important for the police officer to keep in mind when dealing with a disturbed person and his/her family.
c. Someone who cannot cope with a psychological problem is usually reluctant to seek professional help
d. a word like "psycho" should never be used in the presence of the patient or the family
e. Mental illness (insanity, madness) is not a thing, something you can touch or see in a person; rather it is a label, something applied to a person by others.

99. Officer Donald observes a number of apparent addicts on his post waiting for the doors of a methadone clinic to open. From his training at the Academy he knows that the advantages of methadone over heroin are: (Select the <u>incorrect</u> statement)

a. It is administered orally, hence there is less chance for infection
b. It needs to be taken only once daily
c. It is government controlled thus the need to steal is reduced for the individual
d. It is not habit forming
e. The individual can lead a more normal life style

100. For every position we occupy, there are societal expectations about the appropriate behavior we should engage in. Sometimes these expectations conflict. The greater the social distance between the police officer and the public, the less role conflict flict he would have in enforcing the law . A police officer would have less difficulty enforcing the law against.

a. A friendly neighbor playing the numbers
b. An acquaintance parking at a hydrant
c. A relative caught smoking pot
d. A person stealing from a store
e. His partner - Committing an illegal act

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POLICE SCIENCE - FINAL EXAM - PART II -

41. A member of the service must be able to decide whether or not a case should be referred to the detectives. Which of the following cases must a member of the service refer to the detectives?

A. property lost is valued at more than $1,000
B. a victim who receives a physical injury
C. complainant has been the victim of the same felony in the past 2 years
D. a burglary of the First National Bank of North America
E. an arrest for disorderly conduct

42. Notifications must be made by police if the subject of an aided case is hospitalized or dies. Which of the following statements regarding such notifications is most correct?

A. The name, address and relationship of person notified and the identity of the member of the service making the notification must be recorded on the Aided Report
B. Do not make notifications in those cases where other authorities indicate that they have already made the notifications
C. Notifications to relatives of firemen killed or injured will not be made without the permission of the Fire Commissioner
D. Notify the Communications Division direct if an incident involves an M.T.A. Bus
E. All of the above are correct

43. Select the <u>correct</u> statement regarding the enforcement of the V.T.L. provisions concerning motor vehicle lighting requirements:

A. Parking lights alone may be used while a car is moving during the hours of darkness
B. Motorists must drop their headlights to low beam when they are within 250 feet of an approaching vehicle
C. When driving at night, all vehicles must display two red tail lights, visible for 1000 feet
D. Motorists must always use their headlights during the hours of darkness
E. All of the above

44. When working Radio Motor Patrol duty and assigned to Directed Patrol, a patrol officer should:

A. meet the sergeant at a specific time at a specific location for the purpose of patrolling the interior of a private or public building
B. patrol his sector in a random manner giving attention to those tasks that he feels require attention
C. park the RMP at a predetermined location, advise Central that the car will be out of service and attempt to improve contact with the community by interviewing store owners and residents
D. conduct routine prevention patrol and inspection services for the entire tour and refuse to accept any assignment from Central
E. unless engaged in police action, give attention to directed condition at times specified according to the Directed Patrol schedule

45. Mike Levine, a veteran cab driver notified Officer Troche who was on patrol in the 13th Pct. that the passenger in the back seat of his car, Miss Jacqueline Sullivan refused to pay the fare on the meter. Miss Sullivan tells Officer Troche that she refuses to pay because she is being overcharged. The best action for Police Officer Troche to take is:

A. Immediately arrest Miss Sullivan for Theft of Services, a Penal Law misdemeanor
B. Refer both parties to court for a civil settlement
C. Try to get both parties to agree to a mutually satisfactory agreement. If this cannot be done both parties should be brought to the station house where the station house officer will settle the argument
D. Immediately bring both parties to the station house where the station house officer will settle the argument
E. Notify the Taxi and Limousine Commission through Communications Division to respond to the location and settle the argument

46. Which of the following statements regarding STOP, STAND, PARK regulations has been correctly stated?

A. "NO STOPPING" - prohibits any halting, standing, or parking, except to pick up and discharge passengers at a hotel loading zone
B. "NO STANDING" - prohibits any halting, standing, or parking
C. "NO PARKING" - prohibits even expeditious loading or unloading of retail merchandise to or from a store, factory or warehouse
D. "NO STANDING" - prohibits any halting, except to actually receive or discharge passengers, or to discharge or load baggage at hotel loading zones
E. "NO STOPPING" - prohibits any halting, standing or parking except to receive or discharge passengers; permits autos to load or unload at hotel loading zones

47. If a police officer comes into contact with a lost child on his post he should know that:

A. he should immediately make a brief inquiry on his post as to the whereabouts of his parents and if unsuccessful, immediately notify the station house
B. if the child's parents or guardians cannot be located, he shall be brought to the station house where the child becomes the responsibility of the station house officer
C. if a lost child is in the station house, the station house clerk will notify and furnish the child's description to the Missing Persons Squad
D. after the Missing Persons Squad is notified, the child will then be immediately taken to a shelter or precinct with a police officer assigned
E. if the child is removed, the station house clerk is required to notify the Missing Persons Squad

48. Which of the following would be considered an Abused Child according to the N.Y.S. Family Court Act?

A. a 15 year old who has been abandoned by his parents
B. a 16 year old whose parent uses drugs to the extent that he loses self-control
C. a 15 year old who is sexually assaulted by his guardian
D. a 16 year old who has been sexually assaulted by his parent
E. a child whose parents fail to provide medical attention and such child is 6 years old

49. Select the correct statement with regard to auto patrol (RMP Patrol).

A. It is the most costly type of patrol
B. The RMP officers enjoy close contact with the citizens he serves
C. Patrol from RMP provides the officer with the best opportunity for close observation
D. The officer assigned to radio car duty is more efficient than his counterpart - the foot man
E. It is not advisable to use an RMP to carry extra personnel and equipment

50. While assigned to duty directing traffic, you are informed by a passerby that an elderly woman has fallen on the steps of a nearby building and apparently injured herself. The most correct procedure for you to follow at this time would be to:

A. respond to the scene
B. request the field service unit concerned to respond
C. request an ambulance if needed
D. render first aid where appropriate and return to traffic duty when relieved by Field Service personnel
E. all of the above

51. P.P.O. Reid lives in the 50th Pct. Three hours prior to her tour in the 106th Pct., she becomes ill and decides to call in sick. Select the correct statement:

A. She should call the 106 and then the sick desk
B. She should call the 50 Pct. and the sick desk
C. She should call the sick desk, then the 106 Pct.
D. She should call the sick desk, then the 50 Pct.
E. She need only call the sick desk

52. Which of the following would be true of a driver who made a U-turn on 3rd Ave. between E. 20 St. and E. 21 St.?

A. as long as he didn't interfere with vehicle or pedestrian right of way, his turn would be legal
B. his turn would be illegal, only if he crossed a double solid line
C. his turn would be illegal, only if he made it during official "rush hours"
D. his turn would be illegal, under any circumstances
E. his turn would be illegal, unless he were operating a a commercial vehicle about to load or unload merchandise

53. Officers responding to fire scenes should not ordinarily enter a burning building unnecessarily, but only to save human life. An officer who does enter a building, should know that:

A. he should run into the building and get persons out as fast as possible
B. heavy breathing will lessen the carbon monoxide absorption of the body
C. all doors and windows of the building should be opened to allow fire personnel to enter
D. if a door is hot, one should use a rag or any other implement to turn the door handle and open the door
E. hot gases rise, so police should stay as close to the floor as possible

54. As telephone switchboard operator on a 1600 x 2400 tour in the 48 Pct., you receive a call from a precinct resident requesting assistance with a clogged drain in her bathtub. According to the Student Guide:

A. you should try to solve the person's problem if possible and handle the call professionally and with courtesy
B. you should refer the caller to the Department of Water Supply or a private plumber as this is not a police problem
C. you should immediately inform the caller matter-of-factly that this is not a police problem and break the connection quickly so as not to detract from normal police work
D. refer this call to the station house officer because this is an "unusual occurrence"
E. don't waste your time even talking to the caller as she is obviously a psycho

55. Robert O'Neil, age 51, fell into an open manhole at 23rd Street and Third Avenue, sustaining serious injuries. Which of the following statements is an important factor in completing this Aided Report?

A. enter a description of the aided under "details" in all cases
B. fill in the doctor's diagnosis on the Aided Report under the caption "Nature of illness or injury"
C. fill in the doctor's diagnosis under details on rear of Aided Report
D. in all aided cases, make sure notification is made from the scene
E. enter the admission number of all persons taken to the hospital

56. P.O. Coughlen arrested one John Daniels for possession of a Dangerous Weapon (gun). At the station house he searched Daniels and removed certain property before putting Daniels into the detention cell. Which of the following property should P.O. Coughlen have NOT removed.

A. Two glassine envelopes containing a white powder which P.O. Coughlen believed to be heroin
B. Two dollars ($2.00) U.S. currency which Daniels had in his rear pocket
C. A religious medal on a chain which was around Daniels' neck
D. Daniels' pants belt
E. The shoe laces from Daniel's sneakers

57. For which of the following incidents is a Complaint Report required?

A. An arrest of an AWOL soldier for desertion
B. A woman's report to officers that the man with whom she has been living is wanted for a stabbing in Baltimore
C. A report given officers that a member of the service had stolen $300 from a drunk's wallet
D. An arrest for a violation of a Family Court order of protection
E. None of the above requires a Complaint Report

58. If the victim of a robbery states that he "refuses to press charges" against a person arrested for that offense:

A. the police can press charges themselves
B. the police can arrest the suspect only if other charges are involved
C. the police must release the suspect under the provisions of the "Stop and Frisk" law
D. the police should arrest the suspect and ask the District Attorney to subpoena the complaining witness
E. the officers involved must summon the Operations Officer to the scene

59. Which of the following statements about the procedure involved in handling a dead human body is correct?

A. a Complaint Report is required for all bodies found in public places
B. if the hospital authorities notify the relatives of a person who died in a public place, the Police Department is relieved of making a similar notification
C. a notification of death may be made over the telephone, if the relatives to be notified live out of the city
D. if a deceased lived alone, his property will be safeguarded, unless the officers involved can get a relative of the immediate family to assume the responsibility
E. if any doubt exists about an aided being dead or alive, it will be resolved by the ambulance attendant on the scene

60. Select the <u>incorrect</u> statement regarding the Civilian Complaint Review Board.

A. The CCRB reviews complaints from civilians alleging misconduct by members of the department
B. The CCRB serves as a symbol and as a concrete means of complaining about a police officer's conduct when it is believed unreasonable
C. The CCRB acts as an escape valve for the frustrations of citizens grievances, real or imagined
D. A civilian complaint can only be made at the office of the CCRB
E. None of the above

61. "In Progress" calls require rapid and usually silent response, so that the siren and dome light should be used only when necessary. The siren should be used, however, when:

A. responding to a report of a man with a gun
B. responding to a Bank hold-up
C. responding to a report of a 10-13
D. reporting to the scene of a major explosion
E. easing traffic congestion

62. Police Officer Dobbs was working on foot patrol and called the station house at 1200 hrs., when he was scheduled to go to meal. The switchboard operator, another Police Officer, Directed Dobbs instead to report to the station house in order to escort a mentally disturbed person to Bellevue. Dobbs should:

A. ask to speak to a superior officer to get a verification of that order from one authorized to give it
B. inform the switchboard operator that he is "on meal" and will respond when his meal is over
C. proceed to the station house as directed
D. proceed to the station house and handle the "psycho" but later take up the matter of his being given orders by another police officer with his P.B.A. delegate
E. inform the switchboard operator that he is "on meal" and direct him to find an officer who has already eaten to handle the job

63. In which of the following should a Juvenile Report be prepared?

A. child, 14, commits a burglary (felony)
B. girl, 12, found "playing hooky" from school
C. a 16 year old male punches his friend in the face causing an injury (assault misdemeanor)
D. youth, 8, is taken into custody for committing a murder
E. girl, 16, purposely breaks a window of a supermarket with a rock

64. The major reason that members of the service are not to look at or accept the "Record of Violations" as a driver's license is that:

A. the court may later dismiss the case on the grounds that a summons was issued because of the driver's past record, rather than the offense charged
B. the driver may not be licensed, but may be driving with this half of the license of a friend or relative
C. the driver may have retained this section after his license was revoked in a prior court proceeding
D. this half of the license does not contain all the information required by captions of the Universal Summons
E. none of the above are valid reasons why an officer should not examine a "Record of Violations"

65. Probationary Police Officer Smith has just been awarded a citation and a cash award from a community group for saving a baby in an apartment house fire. Before accepting this award, Smith should request a determination from:

A. The Police Commissioner's office
B. His Commanding Officer
C. The Board of Ethics
D. The Commanding Officer of the Field Service Area in which he works
E. The C.O., Training Division

66. The care, proper maintenance and serviceability of Department property is the responsibility of the person to whom such property was issued. Which of the following statements concerning the accountability of such property is most correct?

A. Any loss, damage or unserviceability of this property must be reported to the Department Quartermaster Section
B. A member who loses his shield must report the loss in his resident precinct
C. The loss of Department property is never reported on a Complaint Report
D. A member of the service is required to immediately report a loss of Department property to the station house supervisor and submit a report to his Commanding Officer
E. all of the above

67. Police Officer Smith responded to a scene of an accident involving a taxi and a private auto on the Brooklyn-Queens Expressway and Metropolitan Ave. exit. P.O. Smith should realize that:

A. He should place the first traffic cone at least 150 feet from the scene of the accident
B. The vehicles involved must both possess an insurance identification card
C. Any medallioned tow truck may respond to the scene and tow a disabled vehicle away
D. P.O. Smith should call the highway patrol unit to the scene if a serious injury likely to cause death is involved
E. P.O. Smith should complete the Accident Information Exchange form and give it to the operators of the vehicles involved

68. Although not all tow cars in New York City operate under the same restrictions, certain regulations are applicable to all towing operations. Among them are:

A. Tow owners must be at least 18 years old
B. The driver of a tow car must be a licensed tow car operator and must also possess a NYS Operator's License
C. All licensed tow cars bear a medallion issued by the License Division and affixed by a Hack Inspector
D. All tow cars must be painted yellow with blue trim
E. All of the above

69. Officer Dunn and Officer Michaels respond to a "shots fired" radio run, and find a person who has been shot three times and is likely to die at the scene. In obtaining a "dying declaration" from the victim, Officer Dunn and Officer Michaels should know that:

A. The first question the victim should be asked is, "what happened"?
B. If the victim has some hope of recovery, his statement would be admitted in court only if he actually dies
C. A dying declaration may be admitted into court as evidence, even if the victim lives
D. A dying declaration is not an exception to the hearsay rule
E. The victim's statement should be reduced to writing and signed by the victim, if possible

70. Whenever a field service officer issues a summons for an air pollution violation, he must:

A. notify the patrol supervisor
B. notify the Chief of Operations
C. Notify an officer who has had special training from the Environmental Protection Agency
D. notify the Commanding Officer, Emergency Service Division
E. notify the station house supervisor

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LAW PART TWO - FINAL EXAM - _____ 27-B

1. Criminal Law is divided into two main parts.

   A. Procedural and Criminal Procedure Law

   B. Penal Law and Substantive Law

   C. Substantive Law and Procedural Law

   D. Criminal Law and Criminal Procedure Law

   E. Substantive Law and Constitutional Law

2. Which of the following statements is true?

   A. Probable cause has come to mean nothing more than mere suspicion.

   B. Probable cause is the standard of proof necessary to stop and question a suspect.

   C. the District Attorney has the ultimate burden of proving every material element of the offense by a preponderance of the evidence

   D. A preponderance of the evidence is the standard of proof for an affirmative defense

   E. A Preponderance of the evidence is the standard of proof necessary for a conviction

3. A definition of calpability is:

   a. guilt or liability to blame and punishment

   b. a bodily movement

   c. a written law defining an offense

   d. a voluntary act

   e. all fo the above

4. Pickout the false statement according to the Penal Law:

   A. A 15 yeaf-old who commits murder does not have the defense of infancy.

   B. Intoxication is not a defense to a criminal charge.

   C. Physical force is not a defined term in the Penal Law.

   D. The only defined mental states in the Penal Law are intentionally, knowingly, recklessly and Criminall Negligence

   E. Justification is a defense to any offense.

5. A Civilian can use Deadly Physical Force when necessary to <u>arrest</u> for:

   A. Any offense when necessary

   B. Attempted Murder

   C. Rape

   D. Manslaughter 1st

   E. Attempted Robbery

6. All of the following are contained in the Bill of Rights with one exception. Select the exception.

   A. Freedom of Religion.
   B. The right against self incrimination.
   C. Protection from cruel and unusual punishment.
   D. Eminent domain.
   E. Due process as it applies to the states.

7. Which of the following is the required sequence of the Criminal Proceedings in the courts.

   A. Arraignment, motion to supress, hearings, trial, Appeal, sentencing.
   B. Arrest, Hearing, Motion to suppress, trial, sentencing.
   C. Hearing, Arraignment, Motion to suppress, Trial, Sentencing.
   D. Arraignment, Hearing, Motion to Supress, Sentencing, Trial.
   E. None of the above.

8. Select the true statement regarding Probable Cause:

   A. Probable cause can exist, yet the deft can be found to be not guilty.
   B. If Probable cause exists at the time of arrest and the deft is found to be innocent, the arresting officer is likely to be found liable in Civil Court.
   C. The burden of establishing that probable cause existed at the time of arrest falls on the Defense Attorney
   D. Probable cause must be established in regard to a felony and never a misd.
   E. Probable cause can be exactly defined.

9. Select the wrong statement pertaining to probable cause.

   A. It is more than mere suspicion.
   B. Probable cause is less than the amount of evidence needed to convict.
   C. Probable cause is very different from reasonable cause to believe.
   D. Probable cause is judged by the facts known at the moment the arrest was made.
   E. The facts that amount to probable cause are different in every case.

10. Police Officer Smith is walking a foot post in Queens. His post is bordering Nassau County. A group of young men in their early twenties are riding in an automobile just over the city line in Nassau County. The car is a convertible and the occupants are standing up in the vehicle, drinking cans of beer and throwing empty cans to the pavement; all of the occupants are shouting obscene remarks at the officer. What action should the officer take. All violations are petty offenses.

    A. Arrest the entire group and charge them with disorderly conduct (a petty offense).
    B. Issue a traffic summons to the driver of the car, returnable in Criminal Court in Queens County.
    C. Call the Nassau County police and notify them of the condition.
    D. Use necessary physical force to effect the arrest.
    E. All of the above are correct.

11. Police Officer Jones, a New York City Police Officer off-duty near his lhome in Hempstead, N.Y., a town in Nassau County, was seated in his automobile waiting for the light to change A Police car standing next to him played its radio loudly and the officer overheard a description of a person wanted for an armed robbery of a gas station. A few minutes later the officer spotted a man answering this description at a gas station a few blocks away. He arrested the suspect and after a search of the person he finds a loaded revolver in the waist-band of his trousers. According to the above, the most correct is:

A. The arrest was proper according to the provisions of the C.P.L.
B. The arrest was <u>improper</u> because it occurred in an adjoining county to the officer's geographical area of employment
C. The arrest was proper because it was not in his geographical area of employment
D. The arrest was <u>illegal</u> because the officer did not have a warrant.
E. None of the above is correct.

12. A New York City police officer on vacation was having his hair cut in a barber shop in Nassau County. He observes a man run out of a florist to a car, parked at the curb with the motor running. The officer knew this store has been held up a number of times. When the man put something dark in his coat pocket, the officer reasonably suspected the person had committed a crime in the florist and was in flight. The officer got up ran out of the barber shop, identified himself as a police officer, stopped and questioned the suspect. Feeling in danger, he frisked the man and discovered a hard metal object. He placed his hand inside the man's pocket and recovered a gun. The suspect did not have a permit and was placed under arrest. The store was not held up nor was any other crime committed.

Select the correct answer based on the paragraph. The proper action on the part of the officer would be -
a. to stop the man and then question him
b. to stop the man but frisk before questioning him
c. to immediately place the aman under arrest
d. to identify himself as a police officer then stop the man and hold him for the Nassau County Police
e. none of the above is the proper action on the part of the officer

13. New York Police Department form P.D. 344-151 (UF250) Stop and Frisk form must be made out in certain instances. Select the most correct answer. The P.D. 344-151 must be filled out when:

A. A person is stopped and questioned
B. It is night time and there are no witnesses to the stopping
C. Person is frisked or searched
D. Person is <u>not</u> arrested as a result of the stop
E. None of the above.

14. Which of the following factors will the court consider in determining if duress was present in obtaining consent. Select the <u>most correct</u> answer:

a. time of day
b. number of officers present
c. display of weapons or other symbols of authority
d. manner of approach
e. all of the above are correct

15. Officers Tuddy and Muldune are on routine RMP patrol in a high crime area, when they observe a gypsy cab with three young men circle the block and slow down in front of a liquor store several times. The officers became suspicious and decided to stop the auto for a routine traffic check. They examined the operator's license and registration. After checking both documents, they find that the driver's license is a forgery. However, the registration checks out and a check with Communications Divisions reveals that the auto is not stolen and is registered to the operator. They arrest the operator for possession of a forged instrument, and decide to take all the occupants into custody and remove them to the Station House.
Answer the following questions based on the above facts.
If at the Station House the officers search the three persons, the most correct statement regarding the admissibility of any contraband they find on the person of the three is:
A. All evidence they find is admissible, because the search is made incidental to a lawful arrest
B. Only evidence found on the operator of the vehicle is admissible
C. All evidence found is admissible, since cases involving autos are special cases

D. Only evidence found in connection with an attempt to hold up a store is admissible, since this is what the officers originally suspected.
E. A search warrant must be obtained before anyone can be searched.

16. You are a new police officer and should know as much about searches and seizures as possible because the right of privacy is so highly regarded in our socity. Answer the following questions on the subject of searches with and without a search warrant:
Only certain property may be subject to seizure by use of Search Warrant. Which of the following property is not subject to seizure under a Search Warrant?

A. Unlawfully possessed property.
B. Property subject to recovery.
C. Stolen propery
D. Evidence of an offense
E. Property used or possessed in committing or concealing an offense

17. All of the following except one are elements or factors which the courts will use to determine if custodial interrogation has taken place:
Select the <u>incorrect</u> choice:

a. the nature of the interrogation
b. the type of suspect you are dealing with
c. the location and time of the questioning
d. the guilt of the suspect
e. the manner in which the interview is conducted

18. An individual may waive his right to have counsel present. The waiver must be:
Select the most correct choice

a. Knowingly done
b. intelligently done
c. voluntary
d. all of the above
e. only a and b of the above are correct

19. The New York State interpretation of the Wade, Gilbert, and Stovall Decisions has generally been held to include all of the following except:

A. If arrested, the accused may be required to appear in a line-up for identification purposes.
B. The line-up is a critical stage of a criminal proceeding
C. The accused must be advised of his rights to counsel at the line-up
D. If the accused's counsel is not immediately available, the line-up must be delayed until his arrival.
E. A pre-trial show up is generally prohibited

20. A police officer at the scene of an assignment involving a City Marshal should be aware:

A. That a City Marshal operates in a police capacity
B. That a City Marshal settles family disputes
C. That a City Marshal collects money judgments or their equivalent
D. That a City Marshal is an elected official
E. That a City Marshal has an I.D. card but no badge

21. Police Officer Jones stops a motorist for a traffic violation. The motorist becomes angry and abusive and shoves the officer. The most appropriate charge against the motorist should be:

A. No charge, the conduct must be continuous
B. Assault, the Misd.
C. Menacing
D. Harassment
E. Aggravated Harassment

22. On some occasions arrests for non-violent conduct will have to be made in connection with demonstrations. It would be correct to say that the decision to make an arrest of this nature, where possible, will be made by:

A. The local precinct commander
B. The officer nearest to the illegal conduct
C. The officer in charge of policing the demonstration
D. The Senior officer actually present on the scene
E. The operator of the sector car that covers the area concerned

23. If a gun was introduced into court as evidence it would come under:

A. Best Evidence Rule
B. Hearsay Rule
C. Official proceeding rule
D. Doctrine of firearms evidence
E. None of the above

24. Testifying in court is a very important part of a police officer's duties. Some of the more basic things to remember when testifying in court are all of the following <u>except</u>

A. Never be flippant
B. Never be hostile toward anyone
C. Never be excitable
D. Never be serious
E. Never be sarcastic

25. A police officer should know:

A. That actual preparation of the court case begins the moment you become aware off the offense.
B. Most criminal cases go to trial
C. That he should try tomemorize his memo book entries or other notes, so that he will not forget anything.
D. That he will not be permitted to look at his memo book in court to refresh his memory.
E. That the memo book should contain as little information as possible so that it will not embarrass the officer, if he forgets forgetsdetails of the arrest.

26. As a police officer, when testifying in court you should follow all of the following suggestions, except one. Select the one which should not be followed:

A. Answer only questions asked of you.
B. Stop instantly when the judge interrupts you, or when an attorney objects to a question.
C. Never argue with the defense attorney
D. If your answer was not correctly stated, correct it immediately
E. Try to memorize your notes before taking the stand.

27. Deadly physical force can be used to prevent the theft (larceny) of:

A. $500
B. $5,500
C. one million dollars
D. any amount of property
E. deadly physical force is never used to arrest a person who has committed only a larceny.

28. A peace officer may use D.P.F. when he has R.C.T.B. that it is necessary to prevent or terminate any of the following crimes <u>except</u>

A. Robbery
B. Arson
C. Kidnapping
D. Burglary of a dwelling or occupied building
E. Sodomy

29. Under New York City Police Department Policy re: use of Deadly Physical force; select the incorrect choice:

a. shooting should be the last resort
b. only the minimum amount of force necessary should be used
c. you are never allowed to shoot at a moving vehicle
d. firearms will not be fired if the lives of innocent persons may be endangered
e. firearms may only be used against animals as a last resort

30. Tom makes a homemade bomb from a metal pipe, He intends to use it to blow up Martin's house. As he approaches the house and is about to hurl the bomb, he is arrested by auxiliary police Officer Jones, who is off-duty, walking his dog. According to the Penal Law, select the incorrect statement.

A. Tom was committing a felony for possessing the explosive substance
B. The bomb made by Tom is nnot a deadly weapon
C. If Tom was preparing to throw the bomb when the auxiliary P.O. arrived, the auxiliary P.O. then could use deadly physical force to prevent the arson.
D. If Tom was running away from the scene of the attempted arson, a P.O. could use deadly physical force if necessary, to arrest him.
E. If Tom had run away from the auxiliary P.O. the auxiliary P.O. could have legally used deadly physical force to arrest him.

31. Police Officer Smith while on foot patrol surprises two men who are in the process of committing a robbery of a delicatessen owner. The Officer observes one of the men inflict a physical injury upon the victim. In relation to the crime of assault the proper charge against the men would be:

A. A misd. in all cases.
B. A Misd. or felony depending on the degree of robbery
C. A felony in any case
D. A felony only if the victim dies
E. All of the above are correct.

32. According to the Penal Law, which of the following felonies could not be the basis of a "Felony Murder" indictment?

A. escape a felony
B. Kidnapping
C. burglary
D. assault - felony
E. none of the above

33. Mere possession of which of the following weapons constitutes a felony: (Select the most accurate answer)

A. Machine Gun
B. Bomb
C. Silencer
D. Loaded firearm
E. All of the above

34. Joe, a N.Y.C. Police Officer, attempts to arrest George for Disorderly Conduct, not committed in his presence at a shopping center near his home in Suffolk County. Jim, a friend of George tries to stop the arrest by placing himself between Joe and George - Jim could be charged with:

A. Disorderly Conduct
B. Resisting arrest
C. Attempted escape
D. Assault 3
E. None of the above

35. Bob, while at a party at Frank's house becomes intoxicated to the extent that he is a danger to himself. Bob could be arrested and charged with:

A. Discon
B. Public Intoxication
C. Harrassment
D. being a public nuisance
E. None of the above

36. Pat, while under the influence of alcohol, attempts to direct traffic at 8 a.m. on the Long Island Expressway by standing in the middle of the road, and causes a massive tieup. Pat should be charged with:

a. Discon only
b. Public Intoxication only
c. Discon and Public Intoxication
d. Failure to give right of way to a motor vehicle
e. none of the above

37. Connie Cash, a female country singer, is stranded in N.Y.C. without any funds. She wants to get back to Nashville, Tenn., where she has a recording contract waiting for her. She decides to raise some money for the trip by entertaining people in a subway entrance to pay for her trip back home. Miss Cash should be charged with:

A. Disorderly conduct, violation
B. Disorderly conduct, misdemeanor
C. Loitering, violation
D. Harassment, violation
E. None of the above, as she didn't feel she was bothering anyone.

38. " Passive resistance may substantiate a charge of Obstructing Governmental Administration if an intentional overt act is committed to prevent or attempt to prevent the administration of law, or other governmental function or a public servant from performing an authorized official function. Lack of cooperation, such as a refusal to answer a police officer's questions, would not be sufficinet to charge Obstructing Governmental Administration. The defendant must perform some act with the requisite intent".
Based on the above paragraph answer the following question.

Which title best describes the above paragraph:

a. Authorized Official Instructions
b. Obstructing Governmental Administration
c. Passive Resistance
d. Government Administration
e. Substantiation

39. John is a seller of narcotics, but has a very kind heart and feeling for his fellow man. Joe, who is a heroin addict but temporarily out of money, asks John if he would extend him some credit towards a deck of heroin. John, realizing that an occasional buy back is good for business, gives the deck of heroin to Joe with the understanding that it is a gift. Select the most correct statement below:

a. Joe, when he received the heroin would not be guilty of possession of narcotics.
b. Joe would be guilty of sale of narcotics.
c. John would be guilty of sale of narcotics.
d. John did not sell the narcotics.
e. All of the above are false statements.

40. According to the Penal Law, which of the following would not be considered as " Property " which could give rise to a larceny offense:

a. real property
b. personal property
c. evidence of debt
d. a restaurant or hotel service
e. any article, substance or thing of value

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LAW - 1ST EXAM - COMPANIES 14 TO 25

1. Law can be used to:

A. Keep the peace
B. Prevent illegal conduct
C. Settle disputes
D. Delineate governmental authority
E. All of the above

2. Law, as a means of social control, is unique because:

A. It completely governs all social behavior
B. Its rules are interpretated and enforced by the courts
C. It takes its authority directly from the Bible
D. It guarantees proper behavior within the society

3. Select the correct statement:

A. The primary purpose of criminal law is to protect the individual
B. The primary purpose of criminal law is to protect the community as a whole
C. Procedural law defines the crimes
D. Procedural law is found in the Penal Law

4. The definition of a crime, according to the New York State Penal Law, is properly stated in which one of the following choices?

A. Felonies only
B. Felonies and violations
C. Felonies and Misdemeanors
D. Felonies and Petty Offenses

5. Which of the following is <u>not</u> an element of anviolation?

A. The mental element or guilty mind
B. The weapon or instrument
C. The physical part
D. A written law defining the offense

6. A failure to perform an act as to which a duty of performance is imposed by law is an:

A. Conduct
B. Act
C. Culpable mental state
D. Omission

7. Of the choices below, which is <u>not</u> a culpable mental state defined in the Penal Law?

A. Intentionally
B. Knowingly
C. With criminal design
D. Recklessly
E. None of the above

8. Strict Liability means most nearly:

A. The liability is strictly applied
B. The offense does not require a culpable mental state
C. Liability will be construed on the merits of the case
D. No liability can be placed

9. Re: Ordinary Defenses. A District Attorney in a criminal case must prove, by the weight of the evidence, the guilt of the accused:

A. Beyond a reasonable doubt
B. By a fair preponderance of the evidence
C. Enough to convince the judge
D. Enough to convince the newspaper reporters

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10. The standard of proof associated with the Police Officer's right to stop and question someone in a public place is:

A. Beyond a reasonable doubt
B. Reasonable suspicion
C. Preponderance of the evidence
D. Reasonable cause

11. "_____exists where the facts and circumstances within their (police officers') knowledge, and of which they had reasonable trustworthy information, are sufficient in themselves to warrant a man of reasonable caution in the belief that an offense has been or is being committed." This is the definition of:

A. Reasonable suspicion
B. Beyond a reasonable doubt
C. Preponderance of evidence
D. Probable cause
E. Suspicion

12. With respect to standards of proof as described in the Police Student's Guide, all of the following are levels of proof <u>except</u>:

A. Reasonable suspicion
B. Guilt beyond reasonable doubt
C. Probable cause
D. Suspicion
E. Burden of going forward

13. Which one of the following is an affirmative defense?

A. Justification
B. Intoxication
C. Entrapment
D. Infancy

14. New York State Law provides that persons under a certain age are <u>not</u> criminally responsible for their conduct. That age is:

A. Less than 14
B. Less than 15
C. Less than 16
D. Less than 17

15. Section 35 of the Penal Law defines situations where the use of force by certain classes of people is permissible. A class of such persons mentioned in the chapter is:

A. Physicists
B. Psychologists
C. Physicians
D. Philanthropists
E. None of the above

16. A civilian can use Deadly Physical Force when necessary to arrest for:

A. Any offenses when necessary
B. Attempted Murder
C. Rape
D. Manslaughter, 1st Deg.

17. Pick out the <u>incorrect</u> statement according to the Penal Law:

A. Physical injury includes substantial pain
B. The term "wilfully" is not a culpable mental state in the Penal Law
C. Death is included in the term "serious physical injury" in the Penal Law
D. Deadly physical force must actually cause death

18. John Williams decides to end his life by jumping off the Brooklyn Bridge. You as a police officer may use force to prevent this suicide. What type of force listed below may be used?

A. Deadly Physical Force, only if he jumps
B. Physical Force, only
C. No force, as he will land in the river
D. Depends upon how far he has gotten in his attempt

19. Select the true statement according to the Dept. policy on the use of firearms:

A. A shot to summon assistance is permissible as long as the immediate area is not congested
B. In all cases the maximum amount of force will be used
C. The firing of a warning shot is allowed in some cases
D. Shooting at a moving vehicle is permissible in some cases
E. The firearm will never be used to effect an arrest

20. If a police officer is being threatened by the imminent use of deadly physical force, it would be correct to say that:

A. He must use deadly physical force immediately
B. He should use deadly physical force as a first resort
C. He must not use deadly physical force just to protect himself from the use of same
D. He may use deadly physical force for his own protection only after he has used every other means to protect himself

21. Select the one of the following which is not a purpose of the criminal justice system:

A. Deterrence
B. Rehabilitation
C. Revenge
D. Retribution

22. Select the <u>wrong</u> statement based on your knowledge of the Criminal Justice System:

A. The police are only one part of the Criminal Justice System
B. The primary role of the police is to detect, identify and arrest persons who commit crimes
C. Each segment of the Criminal Justice System should work as an individual unit and not in conjunction with one another
D. The job of a police officer is not completed simply because he has made an arrest
E. The overall purpose of the Criminal Justice System is to control crime in our society

23. Select the <u>incorrect</u> statement based on your knowledge of the workings of the grand jury:

A. The Grand Jury is a separate body which listens to evidence presented by the District Attorney
B. If the Grand Jury feels that probable cause exists that the defendant committed the crime charged, they will return an information
C. The proceedings of the Grand Jury are secret
D. The Grand Jury may consider non-competent evidence such as hearsay to determine if probable cause exists
E. The D. A. is sometimes permitted in the Grand Jury room

24. The right to peacefully demonstrate is guaranteed to all citizens by the:

A. 1st Amendment
B. 2nd Amendment
C. 4th Amendment
D. 5th Amendment
E. 6th Amendment

25. The 5th Amendment to the Constitution guarantees all of the following, <u>except</u>:

A. Freedom from self-incrimination
B. Right to indictment by Grand Jury
C. Freedom from double jeopardy
D. No taking of life, liberty or property without due process
E. Right to peacefully petition the government for redress of grievances

26. All of the following are contained in the Bill of Rights with one exception. Select the exception.

A. Freedom of religion
B. The right against self-incrimination
C. Protection from cruel and unusual punishment
D. Eminent domain
E. Due process as it applies to the states

27. Which of the following is commonly referred to as the backbone of the American Criminal Justice System?

A. Freedom from illegal search and seizure
B. The due process clause
C. Right to counsel
D. Freedom of speech
E. Freedom from double jeopardy

28. Select the <u>incorrect</u> statement in relation to the New York City Criminal Court.

A. It is the most burdened court that the police officer comes in contact with
B. Most criminal cases are initially processed in this court
C. Arraignments are never processed in the New York City Criminal Court
D. It sometimes determines youthful offender status
E. This court sometimes holds commitment hearings of alleged drug addicts

29. Which of the following courts will a New York City police officer have the least amount of contact with?

A. New York City Criminal Court
B. Family Court
C. United States Supreme Court
D. New York State Supreme Court

30. The highest court in New York State is:

A. New York State Supreme Court
B. New York State Criminal Court
C. The court of Appeals of N. Y. State
D. The Superior Court of the Southern District of N.Y. County
E. The New York State Court of Judicial Review

31. Select the true statement regarding Probable Cause:

A. Probable Cause can exist, yet the defendant can be found to be not guilty
B. If Probable Cause exists at the time of arrest and the defendant is found to be innocent, the arresting officer is likely to be found liable in Civil Court
C. The burden of establishing that probable cause existed at the time of arrest falls on the defense attorney
D. Probable Cause must be established in regard to a felony and never a misdemeanor
E. Probable Cause can be exactly defined

32. Select the <u>wrong</u> statement pertaining to Probable Cause.

A. It is more than mere suspicion
B. Probable Cause is less than the amount of evidence needed to convict
C. Probable Cause is very different from reasonable cause to believe
D. Probable Cause is judged by the facts known at the moment the arrest was made
E. The facts that amount to probable cause are different in every case

AT ABOUT 1:00 A.M., ON SATURDAY MORNING IN THE 78TH PCT., IN BKLYN, OFFICERS JOHNSON AND FARADAY WERE ASSIGNED AS PARTNERS IN A RMP UNIT; HEARING AN ALARM RINGING FROM A NEARBY LIQUOR STORE. AS THEY APPROACHED THE SCENE, THE OFFICERS OBSERVED TWO MALES LEAVING THE LIQUOR STORE THROUGH THE BROKEN STORE WINDOW AND RUN IN DIFFERENT DIRECTIONS. SUSPECT #1 IS DESCRIBED AS A MALE BLACK, 5'10", 165 LBS., BLACK HAIR, BROWN EYES, WEARING A GREEN HAT WITH A RED POM POM, LEATHER JACKET, BROWN PANTS AND SNEAKERS. SUSPECT #2 IS DESCRIBED AS A MALE, WHITE, 6',160 LBS., BLONDE HAIR, BLUE EYES, NO HAT, PLAID JACKET, RED PANTS AND SNEAKERS. OFFICER JOHNSON FOLLOWED SUSPECT #1 AND OFFICER FARADAY CHASED SUSPECT #2. BASED ON THE ABOVE PARAGRAPH AND YOUR KNOWLEDGE OF THE LAW GUIDE, ANSWER THE FOLLOWING QUESTION. SELECT THE MOST CORRECT CHOICE.

33. A. Officer Johnson did not have reasonable cause to believe that a crime had been committed
B. Officer Faraday did not have reasonable cause to believe that a crime had been committed
C. Both Officer Johnson and Faraday had reasonable cause to believe that a crime had been committed
D. Only Officer Johnson had reasonable cause to believe that a crime had been committed
E. Only Officer Faraday had reasonable cause to believe that a crime had been committed

34. Officer Jones effected an arrest, having reasonable cause to believe that Harry James committed the offense of robbery. A search was made, incidental to the arrest, and contraband was discovered by the police officer. Answer the following two questions based on the above paragraph. Select the <u>incorrect</u> statement relative to probable cause:

A. Reasonable Cause to believe is necessary to arrest
B. Probable Cause to arrest requires that a crime be committed
C. The person arrested may not have committed the crime
D. Reasonable suspicion differs from probable cause
E. None of the above

35. The concept which best describes the contraband discovered by the police officer is:

A. Exclusionary rule of evidence
B. Incident to the arrest
C. Unlawful search
D. Unlawful seizure
E. None of the above

36. If you arrested a suspect without first having probable cause:

A. The arrest would be valid
B. If the arrest was invalid, the fact that the defendant later confessed could be used to validate the arrest
C. A gun which was seized after the arrest could serve as the basis for a conviction for unlawful possession of a firearm even if the original arrest was declared invalid
D. All evidence seized as a result of the arrest would not be admitted against the defendant
E. None of the above is correct

37. An arrest warrant must contain all of the following, <u>except</u>:

A. Date of issuance
B. Name of issuing court
C. Name of offense concerned
D. Name of defendant, or any description by which he can be identified
E. Address of defendant, or if not known the general area where the defendant can be reasonably expected to be found

38. Select the correct answer

A. While off-duty in Nassau County you can issue a traffic summons for a violation committed in your presence
B. On duty, in New York City, you can issue a summons for a traffic infraction not committed in your presence
C. Off-duty in Nassau County you may arrest for a crime committed in your presence
D. Off-duty in Nassau County you can arrest for a traffic infraction committed in your presence
E. None of the above is correct

39. Persons who are entitled to and are granted Diplomatic Immunity are immune from: Select the correct statement:

A. All arrests including one for a murder he actually committed
B. All arrests for violation of state laws only
C. All arrests for violation of federal laws only
D. All arrests for violations of state laws and most federal laws, except very serious ones such as assassination of a "President", espionage and sabotage, etc.
E. None of the above statements is completely accurate

40. Assume A, a New York City police officer, observes B commit a misdemeanor or a petty offense in New York City. Select the <u>incorrect</u> statement:

A. A could arrest B without a warrant in N.Y.C.
B. A could arrest B without a warrant in either Westchester or Nassau Counties
C. If close pursuit began in N.Y.C., A could pursue B anywhere in the state and arrest him
D. If B committed a petty offense and fled into New Jersey, then A could make the arrest only if in Close Pursuit

POLICE DEPARTMENT
City of New York
Recruit Training School

SOCIAL SCIENCE - 1ST EXAM - COMPANIES 14 TO 25

1. Discretion is most effective when:

   A. Priorities are set by each officer and carried out as uniformly as possible throughout the system
   B. Priorities are set at the supervisory level and carried out as uniformly as possible throughout the system
   C. Priorities are set at the highest level and carried out as uniformly as possible throughout the system
   D. Ambivalence is encouraged
   E. It is used for special interest groups

2. Discretion in police work is necessary for all of the following reasons except one. Choose the <u>incorrect</u> reason for your answer.

   A. Full enforcement is not realistic or practical
   B. Laws are sometimes written that are not intended by lawmakers to be enforced
   C. A policy of discretion helps eliminate corruption
   D. Outdated laws cannot be fully enforced
   E. Laws are often written poorly

ANSWER THE FOLLOWING TWO QUESTIONS BASED ON THE ARTICLE "WHEN PEOPLE WILL HELP IN A CRISIS."

3. In the Kitty Genovese murder case the actions taken by witnesses were as follows:

   A. Most of the people who saw the murder reported it
   B. A small percentage of the people who saw the incident reported it
   C. No one actually saw the occurrence
   D. Of the thirty-eight (38) witnesses no one took the proper action
   E. Only her close friends became involved

4. In the above situation the individual's response has been shown to be affected by whether other people or a crowd is present. Which of the choices below is <u>not</u> a true statement re: crowds' effect on individual behavior?

   A. The more people who observe an emergency, the less likely it is likely that an individual will respond
   B. The individual takes clues from those around him and acts accordingly
   C. The crowd can force inaction on the individual by someone else taking action
   D. The crowd can force inaction on the individual, by implying that the event is not an emergency
   E. The individual may not act because he feels other bystanders are equally responsible for helping

5. Select the <u>incorrect</u> statement.

   A. The Social Science Curriculum is designed to prepare and reinforce the student for the realities of police work
   B. Social Scientists have found that money is the primary motivating force of police officers
   C. Dedication and commitment are two important elements of the police profession
   D. The new police officer has taken the job of police officer for many reasons, among them are security, status, good pay and to help people
   E. Through Introspection, the officer may come to better understand himself.

6. Within the case studies cited in Unit I, the success of officers Hodgson and Nixon was seen to be primarily due to:

   A. Their commitment to police work
   B. Their flexibility and apathy
   C. Their ability to make numerous good arrests
   D. Their ability to psychoanalize the community they served
   E. None of the above

7. There may be many explanations for the huge number of crime shows on TV depicting the idealized Cop. The author of "The Police as Portrayed in the Media-Myth or Reality" suggests a reason for the popularity. Select the correct reason.

   A. The public yearns for the excitment of a Police Officer's life
   B. The idealized cops may satisfy a yearing for a more ordered world - a world where pure good triumphs over pure evil
   C. The public wants to see police action that depicts the real story of cops
   D. The public has a problem associating with the police and these shows help alleviate the problem
   E. Because cops are not like anyone else in the community, people want to know more about them

ANSWER THE FOLLOWING TWO QUESTIONS OF THE VIDEO TAPE OF THE 79TH PRECINCT ANTICRIME UNIT.

8. Several officers in the program discussed emotional feelings and police work. Select the answer that best describes their thoughts.

   A. A good police officer does not experience emotion at the scene of a homicide
   B. A good police officer will show in his performance at a particular incident how human he is by demonstrating how affected he/she is
   C. A good police officer will be hard and uncaring
   D. A good police officer will feel emotion and not let it interfere with his/her performance
   E. None of the above

9. Sergeant Saverese in the program gives an explanation for hostility toward the police (such as P.O. Nakwapil experienced on his first tour). Choose the answer that reflects this explanation.

   A. People who are hostile usually have specific grudges against individual officers
   B. The officer's personality provokes hostility from citizens
   C. Attacks on police are the result of highly organized conspiracies committed to revolution
   D. Hostility is directed at the police officer as a symbol, or representative of society
   E. All of the above

10. There are certain techniques used on a person in a police organization in order to make him conform to the code of secrecy. Which is <u>not</u> one of these techniques?

   A. Fear of not being backed up in a dangerous situation
   B. Exclusion from the group and therefore being deprived of certain information
   C. Spreading juicy rumors about injustices against innocent police officers causes suspicion, which leads to secrecy
   D. Denial of requests for days off by the administrative staff in order to achieve compliance with the code of secrecy
   E. No other police officers will work with him

11. In the article "A Sketch of the Policeman's Working Personality", the author makes certain assertions regarding this working personality. Which of the following would not be one of his assertions?

A. There are common tendencies in police as a group
B. Assignment plays an important part in producing a working personality
C. All policemen are not alike in their working personality
D. In developing this working personality the author concentrates on the "officer on the beat."
E. A working personality is limited only to police officers

12. In the article "A Sketch of the Policeman's Working Personality" the author's main contention regarding the police officer's working personality is that :

A. The elements of danger and authority bring about respect and community cohesiveness
B. The elements of suspiciousness and hypocrisy bring about social isolation and police solidarity
C. The elements of suspiciousness and hypocrisy bring about respect and community cohesiveness
D. The elements of danger and authority bring about social isolation and police solidarity
E. The elements of social isolation and police solidarity bring about danger and authority

13. Upon graduating from the Police Academy, P. O. Smith, an idealistic person who believes in police professionalism, is told by older officers at the precinct that he should forget what he learned at the P. A. because it has no relationship to actual police work. While still holding on to his idealism and beliefs in professionalism, P.O. Smith is beginning to repeat what he has heard from these older officers. P. O. Smith is beginning to display signs of: Choose the best answer

A. Possible conformity to group deviance
B. Being influenced by peer pressure
C. Role conflict
D. Cynicism
E. All of the above

14. Police Officer Mary Lane originally took the police entrance exam with the understanding that she would be performing the conventional duties of a policewoman (matron duty, searching D.O.A.'s etc.). Now she finds herself on regular patrol duty in a precinct. She might expect to be confronted by the following problem attitudes. Choose the best answer.

A. She may be told she will never be able to do the "full" job because she is physically incapable
B. She may be told she is unfeminine
C. She may be told she is risking her partner's life
D. If she is told she is no good repeatedly, she might come to believe it herself
E. All of the above

15. You are driving your MP past a new, soon to open, low income housing project when your partner remarks, "Look at that place. It sure looks O.K. now but as soon as it opens the tenants will turn it into a slum inside of two weeks." This type of remark might be best considered to be demonstrative of:

A. Realistic situational appraisal
B. Hall's law of passive resistance
C. Cynical social attitudes
D. Realistic beliefs in the imaginary
E. None of the above

16. According to the material presented in Unit II, roles are:

A. The empathetic behavioral expectations of others that we have among ourselves
B. The status we have within our environment, (job,etc)
C. The shared expectations that people have about the behavior of certain people in particular settings, depending upon what they are doing at the time
D. Disfunctional in a semi-military environment, in that they tend to destroy the system of hierarchy
E. Functional in that they tend to contribute positively to the repression of discretion

17. The term "police solidarity" most nearly means that police officers:

A. Are highly ethical and moral individuals
B. Are physically able persons
C. Are solid and upright citizens
D. Tend to find social identity within their own occupational surroundings
E. None of the above

18. In the article "The Police as Portrayed in the Media- Myth or Reality" there is considerable mention of the television series "Columbo". According to the article, which of the following would be the primary duty (require the most time) of the Lieutenant in the Homicide Squad? Select the correct answer.

A. Supervise his subordinates
B. Question suspects after Miranda Warnings
C. Conduct a homicide investigation
D. Lift fingerprints
E. Follow up on the written complaints of uniform police officers by door-to-door inquiries.

19. "When a man has an unpleasant interaction with a police officer, he will probably react negatively and distrust other police officers." Based on this statement, select the best answer.

A. An attitude is limited to one specific situation, person, or event
B. The above is an important process called rationalization
C. This tendency to rationalize is essentially what prejudice is
D. A prejudice is an attitude with mild emotions and values
E. None of the above answers is correct

20. Society has certain rules that govern behavior. Select the best choice regarding these rules.

A. We are controlled by the norms of our society as much as we are controlled by the laws of our land
B. Norms are the social rules that govern our behavior
C. Norms may be classified into mores, taboos, and folkways
D. Individuals within social groups strain to conform to the group norms
E. All of the above answers are correct

21. Most people are against crime and want to see it suppressed. However, most of these same people may engage in some type of white-collar crime, (i.e., taking pads, pencils, and paper clips home from the office, sleeping on the job), or may cheat on their income tax returns. These otherwise honest citizens may violate the law because:

A. There is a discrepancy between ideal and real norms
B. Ideal norms describe what we actually do, while real norms describe what we should do
C. Violation of the law in one situation will discourage violation of the law in other situations
D. The violation of these mores entail severe punishment
E. All of the above answers

22. According to the article "Behavior of Deviants in Group Situations", choose the incorrect answer.

A. Bad behavior can be considered deviant, but good behavior cannot
B. Anomie is a condition of normlessness, in which people feel a lack of guidance and orientation for their behavior in social interactions
C. If everyone behaves in a deviant manner, the new behavior becomes a norm
D. Deviant acts will differ from group to group and from society to society
E. An act that was once deviant could become the norm

23. Just as norms influence our perception of a situation, so do values. Select the incorrect statement regarding values.

A. Values cannot be tested or proven right or wrong from the individual standpoint
B. Values are durable and remain stable from one situation to another
C. Values are the judgments that we make about the desirability or worth of a person, idea, feeling, event or object
D. If we value a particular person, either because we like him or dislike him, he will tend to stand out in our perception
E. Values can shift over time or from one situation to another

24. You administered first aid to an injured person at the scene of a collision. What role did you fulfill?

A. Guardian of Society
B. Philosopher
C. Friend
D. Supportive
E. Control

25. Police are often asked to exercise their supportive role. Select the choice which is not a reason for the above statement

A. The police officer is on duty at times of the day when no other social agent is available
B. The police officer deals with the problems of the poor and the ignorant and no other agent is anxious to serve them
C. The poor and the ignorant use the police in the way that middleclass people use family doctors and clergymen
D. He has knowledge of, and access to very few other agents
E. The police often enforce unpopular laws

26. Article "Behavior of Deviants in Group Situations," describes how groups can influence the behavior of the individual. Some of the factors that can cause conformity of the individual are: choose the incorrect answer.

A. A group has greater influence on an individual when he voluntarily joins such group
B. The more important the group, the more power it has over him
C. The less self confidence in an individual, the more likely he will be influenced by group pressures
D. The more groups a person belongs to, the greater influence these groups have over him
E. The more a group sticks together, the more power the group has over the individual

27. According to Kruger and Cohn, in the article "Attributing Causation in Social Situations", which is false?

A. All people have a need to predict and control environments
B. Interpersonal relations are primary to human life
C. Each of us looks at ourselves differently from the way we look at others
D. The exercise of control is linked to the perception of causality
E. We should try to assume, rather than find out facts

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28. Select the incorrect statement. (Article - Attributing Causation in Social Situation.)

A. A judgment is usually made on the basis of a small sample of behavior that is evaluated against over perception of the relative weight of environmental and personal causes
B. When there is a difference between a person's overt behavior and his attitudes, he will tend to shift his attitudes in line with the behavior, If he has sufficient justification for his behavior, he will not alter his attitude.
C. A self-fulfilling prophecy is a situation, in which our assumptions about a situation bring about a behavior on our part, which causes our assumptions to come true
D. Knowledge of the ways in which people use personal space will be of use to the police officer in handling situations with people from different backgrounds
E. When we succeed we reinforce the internal attribution, and when we fail we reinforce the external attribution. An example would be the student who credits his teacher for his success, and blames himself for his failures.

29. In Emotional Hazards of Police Work, Dr. Symonds develops several factors that can cause emotional strain. Which of the following is not one of these causes?

A. Dealing directly with people including many negative contacts
B. Having to be flexible in rapidly changing situations
C. The reality of police work
D. The very nature of a police department
E. Working with a female partner

30. Based on the article "Attitudes-A Factor in Police Performance", select the incorrect statement:

A. An officer frequently has to ignore the attitudes of other people even though he may strongly disapprove of them
B. An officer's private attitudes should not be permitted to influence his official decisions
C. A police officer should become personally involved when making an arrest
D. If people either see or believe that you dislike them, your contact will always be more difficult and less effective
E. Try to show an attitude of neutrality and objectivity

POLICE DEPARTMENT
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POLICE SCIENCE - EXAM #1 - COMPANIES 14 TO 25

1. Which of the following best describes the purpose of the Activity Log?

   A. To supplement existing forms and records
   B. To accurately and chronologically record daily activities and to aid in evaluating the officer
   C. To identify and discipline the lazy worker
   D. To act as a check and balance of records
   E. None of the above

2. Police Officer Ross has reported for duty at his new command - the 73rd Pct. In order to find out which post he is assigned to, he must read the:

   A. Screening sheet
   B. Command Log
   C. Roll Call
   D. Police officer's activity report
   E. Teletype log

3. Which of the following is the most accurate statement of police minority relations?

   A. Good police work alone will not end minority group resentment against the police, since much of this feeling is due to other causes
   B. If all police were understanding and incorruptible, minority grievances against them would end
   C. Slumlords and exploitative merchants cause most ghetto resentment against police
   D. If the racial distribution of police were equal to that of the community, ghetto resentment would end
   E. Police are unpopular in the ghetto, because they must enforce unpopular laws against gambling, drinking on the street, narcotics, etc.

4. The Department is headed by a civilian commissioner, appointed by the Mayor, and not a uniformed officer because:

   A. It has usually been difficult to find qualified members of the service for this job
   B. The best men for this job are often found in other areas
   C. Civil service tests cannot determine who is best suited for this job
   D. The Commissioner should reflect the policies of the Mayor, the City's highest elected official
   E. The Department should reflect the military tradition of a civilian heading a uniformed force

5. You have chosen police work as your career. The cornerstones of the career of a professional police officer are:

   A. His power and authority
   B. His alertness and awareness as to what is going on around him
   C. His honesty and integrity
   D. His street knowledge and "gut feeling"
   E. All of the above

6. "Information that would defeat the ends of justice" includes:

   A. Important clues to crimes
   B. Contents of suicide letters
   C. Identities of important witnesses
   D. Extrajudicial statements concerning one's prior criminal record or character
   E. All of the above

7. Many recruits argue that members of a "service organization" should not be required to engage in many of the "military style" formalities (salutes, close -order drill, etc), practiced at the Academy. The most valid reason to continue such practices, however, is that:

A. Recruits must be educated to Department policy that they not question the orders of their superiors
B. Military formations and courtesies are the only way a uniformed force can look truly "sharp"
C. This remains the best way to maintain discipline and to gain instant compliance with orders
D. This remains the best way to develop a professional and courteous style among recruits
E. Police agencies can never become real service organizations, but must be based on a military model to be efficient

8. Inside a station house, the muster room is the area:

A. Next to the cells
B. In the locker room
C. Where gas is received
D. In front of the desk
E. Where you park your car

9. Which of the following signals involves the most serious emergency?

A. 10-02; B. 10-06; C. 10-12; D. 10-52; E. 10-54.

10. Which of the following is the most accurate statement concerning Department relations with the press?

A. Reporters cannot be prohibited from interviewing arrested persons because prisoners are public personalities
B. Members of the service should never release information to the press without conferring with a superior
C. There are certain instances when the identity of even an adult crime victim may not be given to the press
D. The press should be viewed with caution since it is usually only interested in printing information embarrassing to the Department
E. Most information requests from the press should be referred to the Deputy Commissioner of Public Information

11. Press relations for the Department are coordinated by:

A. Public information office
B. Public relations unit
C. Information analysis unit
D. Press coordinating unit
E. News release squad

12. Officer Hughes has just completed an appearance in Criminal Court on an arrest he made which he considers outstanding. He feels that he possibly could be deserving of some recognition for his excellent performance of duty. Which of the following should he consult to find the procedure for seeking recognition?

A. Legal Bulletins
B. Operations' Orders
C. Department Bulletins
D. Patrol Guide
E. Criminal Procedure Law

13. The most logical reason that recruits in training are not permitted in bars and grills is that:

A. Such regulations are necessary to develop discipline and self control
B. Such regulations tend to develop good habits in the future
C. Many bartenders and tavern owners try to corrupt police officers early in their careers
D. Many recruit officers lack the experience and training to handle the ugly situations to which they are vulnerable in these places
E. Such permissiveness is often destructive of good study habits and adequate performance in physical and firearms training

14. Which of the following has the greatest impact on Department relations with the press and public?

A. The solution of major newsworthy crimes
B. The efforts of the Department's Community Relations Division
C. Outstanding performances in crisis situations (e.g., major demonstrations, the "Williamsburgh siege").
D. The routine daily work of line police officers
E. Arrests of police officers for malfeasance and corruption

15. The principle of "Unity of Command" assures that:

A. Members of the service know that they are responsible to only one boss at all times
B. Superiors know when they are in charge
C. One's accountability is usually limited to one boss
D. Conflicting orders are never issued
E. Officers know when they are accountable to in emergency situations

16. When Joe McPain was 9 years old a police officer filed a Juvenile Report on him. That report will be destroyed when McPain reaches age:

A. 16; B. 18; C. 19; D. 25; E. 17

17. Which unit makes out-of-town notifications?

A. Correspondence Unit
B. Information Unit
C. Office of Programs and Policies
D. City-Wide Anti-Crime Desk
E. None of the above

18. While patrolling your post you are approached by a private citizen who informs you of an alleged illegal gambling operation. You realize that based on the information given you, you could take no action at that time. Therefore, you:

A. Tell the citizen that nothing can be done based on such information
B. Assure the citizen that the matter will be investigated and refer the complaint to Organized Crime Control Bureau
C. Assure the citizen that the matter will be investigated and refer the complaint to the specialized detective squad concerned.
D. Prepare a complaint report and refer the case to the Precinct investigators
E. Contact City-Wide Anti-Crime Section and request that they investigate the gambling operation

19. You are patrolling at the intersection of Flatbush and Nostrand Avenues when your radio car is involved in an accident with a truck; you are injured slightly. In this instance, you should:

A. Issue a summons to the driver of the truck
B. Report sick immediately
C. Request witnesses to leave their names, so that they may be available later for questioning
D. Notify the station house supervisor of the precinct of occurrence of the accident
E. Make a report of the incident at the completion of your tour

20. Probationary Police Officer Reid lives in the 50th Pct. Three hours prior to her tour in the 106th Pct. she becomes ill and decides to call in sick. Select the correct statement.

A. She should call the 106 and the sick desk
B. She should call the 50 Pct. and the sick desk
C. She should call the sick desk, then the 106 Pct.
D. She should call the sick desk, then the 50th Pct.
E. She need only call the sick desk

21. If you were called to the scene of a serious vehicle accident and realized that you would be unable to free the victim from the wreckage, you would call for assistance from:

A. Auto Crime Unit
B. Forensic Technician's Section
C. Engineering Section
D. Emergency Service Unit
E. Motor Transport Division

22. In order to be effective, discipline should:

A. Be negative
B. Seek to correct improper behavior by punishment
C. Be viewed most often as a form of training
D. All of the above
E. None of the above

23. Even though the Field Service Officer's involvement in many incidents ends with the preparation of a form, it is most important that he make them as accurate and complete as possible because:

A. These serve as a basis for decisions involving responses to individual cases and to trends
B. Professional police officers should do everything well
C. It it is later found that the form is inadequate, the officer will be rated poorly, and conversely, if it is done well, he will be rated highly
D. Accurate and complete work fosters cooperation between the Field Service Bureau and the units to whom these forms are forwarded
E. The efficiency ratings of commanding officers depend on how well their subordinates do their jobs.

24. Which of the following radio signals indicates that an auto has been reported stolen?

A. 10-14; B. 10-15; C. 10-16; D. 10-17; E. 10-18

25. Probationary Police Officer Stephanie Duke was listening to several "old timers" discussing their ideas of the "police officer's role." Which of the following opinions is closest to Department policy?

A. "Anyone can tell who the best cops are. All you have to do is look at their Activity Reports to see who's out there making all the arrests and summonses. They're the sharp guys."
B. "Good cops are like social workers. You can tell who they are by finding out which guys have the most friends on their posts."
C. "It's really hard to tell who the best cops are because you can only measure arrests and summonses and they do so much more."
D. "The best cops take care of everything out on the streets. They know how to straighten everything out and don't make many arrests and summonses."
E. "The best cops know they can't be effective if they get too tight with the community. You've got to keep some distance between them and you to be objective."

26. If you are assigned to the City-Wide Anti-Crime Section, you would investigate usually:

A. Routine precinct crimes
B. Long-range investigations
C. Sex crimes only
D. Missing Persons
E. Organized crime only

27. Police Officer Kelly is reassigned to the 28th Pct. His transfer would be found in which one of the following?

A. Operations Orders
B. Department Bulletins
C. Interim Orders
D. Personnel Orders
E. Personnel Bulletin

28. During your careers as police officers, you will be called upon to use your power of "discretion" in dealing with people. The term discretion would mean most nearly:

A. Reasonable cause to believe
B. The power to arrest as defined in 140 of the Penal Law
C. Being able to arrive at a conclusion through suspicion
D. Use of common sense approach to different situations
E. All of the above

29. Five officers are having a rather heated discussion about the value of the Patrol Guide in their daily work. Which of their positions, which may be summarized as follows, is correct?

A. "That book means nothing on the street. You've got to deal with situations as they arise."
B. "If you go strictly by the book, you'll never go wrong. It was written by guys who know more than I, so I'll stick by it no matter what."
C. "The book is OK - but only on tests. Unfortunately, the real world is never so neat, so I'll do things my way."
D. "The book is there to help you make decisions. But you've got to realize that it can't cover every possible situation, that's what makes this job so tough."
E. "That book is the brass's way of fixing responsibility; if something goes wrong, they know whom to blame."

30. During a police career, problems and questions related to accepting gifts, awards, testimonials and the like may be resolved by:

A. The Acceptance Review Board
B. The Ethics Review Board
C. The Employee/Community Relations Board
D. The Precinct Council
E. No Board, as officers are never allowed to accept any of these articles

POLICE DEPARTMENT
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LAW - 2ND EXAM - COMPANIES 14 TO 25

YOU ARE ON RMP PATROL AND RECEIVE A RADIO SIGNAL 10-20 (PAST ROBBERY) AT THE CORNER OF 114 ST. AND LENOX AVE. YOU RESPOND TO THE SCENE AND OBSERVE A GROUP OF ABOUT 10 PEOPLE STANDING AT THE LOCATION. YOU PROCEED TO QUESTION THE WITNESSES IN AN ATTEMPT TO DISCOVER WHAT HAPPENED. YOU OBTAIN A DESCRIPTION OF THE SUSPECT AS FOLLOWS; MALE, BLACK, ABOUT 25 YEARS OLD, WEARING A YELLOW SHIRT, RED PANTS, WHITE SNEAKERS AND A BIG AFRO HAIR STYLE. WITH THIS INFORMATION YOU SEARCH THE AREA AND OBSERVE A MALE FITTING THE DESCRIPTION ABOUT THREE BLOCKS FROM THE SCENE, YOU AND YOUR PARTNER APPROACH THE SUSPECT AND STOP HIM. WITHOUT QUESTIONING THE SUSPECT YOU IMMEDIATELY FRISK HIM FOR WEAPONS. YOU DISCOVER A "SATURDAY NIGHT SPECIAL" (A GUN) IN HIS LEFT PANTS POCKET. YOU PLACE THE SUSPECT UNDER ARREST AND BRING HIM BACK TO THE SCENE FOR A SHOW-UP IDENTIFICATION BY THE COMPLAINANT. THE COMPLAINANT IDENTIFIES THE SUSPECT AND THEN YOU PLACE THE PRISONER INTO THE RADIO CAR AND PROCEED TO THE STATION HOUSE. WHILE IN ROUTE THE PRISONER STATES, WITHOUT YOUR QUESTIONING HIM, THE FOLLOWING: "OKAY, YOU GOT ME, I DID IT, I NEEDED SOME MONEY FOR A FIX." AT THAT POINT YOU STOP THE PRISONER AND ADVISE HIM OF HIS MIRANDA WARNING RIGHTS. BASED ON THE ABOVE INFORMATION, ANSWER THE FOLLOWING TWO QUESTIONS.

1. Which of the following statements is <u>incorrect?</u>

   A. When you initially responded to the scene it was not necessary to give the people you questioned the Miranda Warnings because at that point it was a general inquiry
   B. If during this general inquiry the investigation started to focus on one of the individuals, you would be required to give that person his Miranda Warnings Rights
   C. With the description above, you had reasonable suspicion to justify stopping the suspect
   D. The frisk was not justified because you did not first see a bulge resembling a weapon
   E. It is not necessary to question the suspect before frisking him, if the stop is for a serious and violent crime, such as robbery or burglary

2. Which of the following statements is <u>incorrect?</u>

   A. The show-up identification of the prisoner was justified
   B. The prisoner must be given an opportunity to obtain counsel in an on-the-scene identification
   C. A show-up may be used when the suspect is apprehended within a reasonable time after the commision of the crime and within an area reasonably near the scene of the crime
   D. A show-up may also be used in an extreme emergency when the witness is ill or injured and may die before a line-up could be conducted
   E. The Wade-Gilbert hearing will be used to determine the fairness of the eyewitness identification.

ANSWER THE FOLLOWING QUESTIONS BASED UPON THE FOLLOWING FACT PATTERN:

<u>TIME:</u> 2300 hours. <u>Subject</u>: Male, 30 years
<u>Location</u>: Street (residential area)
<u>Appearance and Activity</u>: Officer observes subject staggering along street near the curb. Cars are parked in the roadway and subject, while staggering, grabs the door handles of each car as he passes. The officer recognizes this action as being similar to that used by some car thieves - the purpose being to locate unlocked autos while pretending to be drunk.

3. Based upon the foregoing information, the officer may legally:

   A. Stop the subject only if there exists some additional factor to support the officer's suspicions
   B. Stop the subject but may not frisk him
   C. Stop the subject and frisk him
   D. Stop the subject but may frisk him only if the subject refuses to reply to the officer's questions
   E. Arrest the subject

4. Assume that the officer, upon approaching the subject, smells a strong odor of alcohol on his breath and concludes that the subject is in fact intoxicated. The officer further concludes that the subject's actions are a result of this intoxication and not of any criminal intent. At this point, however, the officer now notices an unidentifiable object protruding from the subject's left jacket pocket. Considering these additional facts, the officer may properly:

   A. Frisk the subject as a justifiable precaution
   B. Search the subject
   C. May question the suspect but may not detain him against his will
   D. May lawfully detain (stop) the subject but may not frisk him
   E. Bring the suspect to the station house for further investigation

5. New York State Law requires that a police officer who makes an arrest must, except when impractical, advise the person arrested of certain facts. One thing which the officer is not required to do is:

   A. Advise the person that he is under arrest
   B. Inform the person of his authority
   C. Apprise the person arrested of the facts which led to the officer's belief of his guilt
   D. Advise the person of the reason for the arrest

6. You are assigned in civilian clothes to the Midtown Area which has been plagued recently by larcenies from autos. (All larcenies are crimes defined in the Penal Law.) Your superior officer informs you of the Modus Operandi of this type criminal and then assigns you specifically to the task of preventing and arresting the perpetrator of such crimes. Based on your knowledge of probable cause and reasonable suspicion, answer the following question: Select the most correct statement

   A. Reasonable suspicion of the crime of larceny from an auto falls under the "Stop, Question, and Frisk" law.
   B. If you have reasonable suspicion to believe a person has committed a larceny from an auto you may arrest him
   C. In addition to having probable cause to believe a larceny from an auto was committed, the officer must actually witness the crime being committed, before making an arrest
   D. While investigating a crime, it would be reasonable to assume that probable cause could not be established prior to reasonable suspicion
   E. None of the above statements is accurate

OFFICER SMITH AND JONES ARE ON PATROL ON PENNSYLVANIA AND DUMONT AVENUES IN THE EAST NEW YORK SECTION OF BROOKLYN, WHEN THEY RECEIVE A CALL FROM CENTRAL TO INVESTIGATE AN ANONYMOUS PHONE CALL THAT WAS RECEIVED AT THE POLICE EMERGENCY NUMBER, 911. THE CALLER STATED SHE OVERHEARD TWO MALES DISCUSSING A PLAN TO ROB A BANK ON PENN. AND NEW LOTS AVENUES, AT ABOUT THIS TIME. SHE SAID SHE HEARD ONE OF THEM STATE "THEY WOULDN'T HAVE THE NERVE TO RESIST US WITH WHAT WE HAVE." CENTRAL THEN STATES THAT NO FURTHER DESCRIPTION WAS GIVEN. THE OFFICERS PROCEED TO THE AREA AND PARK WHERE THEY CAN OBSERVE THE BANK. THEY THEN OBSERVE TWO MALES FOR APPROXIMATELY 10 MINUTES WHO APPEAR TO BE ACTING SUSPICIOUSLY AND NERVOUSLY LOOKING IN THE BANK WINDOW. IT IS SUMMER AND ONE OF THEM IS WEARING A LONG OUT-OF-SEASON COAT. THE OFFICERS PROCEED TO THE BANK AND STOP THE TWO MEN BEFORE THEY ARE ABLE TO GO IN. WITHOUT SAYING ANYTHING, THE OFFICERS PLACE THEM AGAINST THE WALL AND IMMEDIATELY FRISK THEM, AND FIND TWO LOADED .45 CAL. REVOLVERS. ANSWER THE FOLLOWING TWO QUESTIONS BASED ON THE ABOVE PARAGRAPH.

7. Regarding Stop and Frisk as stated in the C.P.L. and your law guide, select the most correct statement.

A. The stop was legal but the frisk was not because the officers did not first question the suspects
B. Both the stop and frisk were legal, due to the dire emergency conditions. The officers' lives might have been in danger so they were justified in by-passing the questioning stage and conducting the frisk
C. Both the stop and frisk were illegal because the officers were not acting on reasonable suspicion
D. The revolvers would be admissible in court even if the officers did not have reasonable suspicion to stop and frisk in the above situation
E. The officers had reasonable suspicion to stop, but not enough for a frisk

8. In order for the revolvers obtained from the frisk to be admitted into evidence; select the best statement:

A. It must be shown the stop and frisk were based on reasonable suspicion and fear for the officers' safety
B. It must be shown that the officers felt a hard object which could be a weapon
C. The crime which is suspected must be connected with a weapon or there must be some independent grounds to believe that the suspect is armed
D. It must be shown that the frisk was justified solely as a protection confined in scope to a search reasonably designed to discover guns, knives, etc.
E. All of the above statements are correct

9. Police Officer Jones is a N.Y.C. police officer assigned to the 46th Pct. in the Bronx. On Election Day, Officer Jones is scheduled to perform a 1600 to 2400 tour of duty at a polling place in the Bronx. Before going to work, however, officer Jones who, takes his voting privileges quite seriously, decides to go to his designated polling place in the small Rockland Co. town where he resides. While inside the polling place, Officer Jones observes a person engaging in conduct which causes him to reasonably suspect that the person may be about to commit one of the specified misdemeanors in the Election Law. Answer the following question, based on the above paragraph.
In the above situation, Officer Jones should do which of the foll:

A. Immediately place the suspect under arrest
B. Stop and question the suspect
C. Immediately stop and frisk the suspect
D. Conduct a thorough search of the suspect for a deadly weapon
E. None of the above

10. In a Stop, question and Frisk situation, an officer may be justified in asking all of the following questions with one exception. Select the <u>exception.</u>

A. What is your name?
B. Where do you live?
C. Where are you going?
D. When were you arrested last?
E. Where are you coming from?

. OFFICERS TUDDY AND MULDUNE ARE ON ROUTINE RMP PATROL IN A HIGH CRIME AREA WHEN THEY OBSERVE A GYPSY CAB WITH THREE YOUNG MEN CIRCLE THE BLOCK AND SLOW DOWN IN FRONT OF A LIQUOR STORE SEVERAL TIMES. THE OFFICERS BECOME SUSPICIOUS AND DECIDE TO STOP THE AUTO FOR A ROUTINE TRAFFIC CHECK. THEY EXAMINE THE OPERATOR'S LICENSE AND REGISTRATION. AFTER CHECKING BOTH DOCUMENTS, THEY FIND THAT THE DRIVER'S LICENSE IS A FORGERY. HOWEVER, THE REGISTRATION CHECKS OUT AND A CHECK WITH COMMUNICATIONS DIVISION REVEALS THAT THE AUTO IS NOT STOLEN AND IS REGISTERED TO THE OPERATOR. THEY ARREST THE OPERATOR FOR POSSESSION OF A FORGED INSTRUMENT, AND DECIDE TO TAKE ALL THE OCCUPANTS INTO CUSTODY AND REMOVE THEM TO THE STATION HOUSE. ANSWER THE FOLLOWING QUESTION BASED ON THE ABOVE FACTS.

11. If at the Station House, the officers search the three persons, the most correct statement regarding the admissibility of any contraband they find on the person of the three is:

A. All evidence they find is admissible, because the search is made incidental to a lawful arrest
B. Only evidence found on the operator of the vehicle is admissible
C. All evidence found is admissible since cases involving autos are special cases
D. Only evidence found in connection with an attempt to hold up a store is admissible, since this is what the officers originally suspected
E. A search warrant must be obtained before anyone can be searched

12. Under certain emergency circumstances, you will be allowed to make a warrantless search. You must be prepared to show: Select the most correct answer:

A. That you had probable cause for the arrest
B. That delay if a warrant were obtained would create danger
C. Delay would result in escape
D. Delay would result in destruction of evidence
E. All of the above are correct

13. The exclusionary rule of evidence was applied to State Police Officers by which of the following Supreme Court Cases?

A. Terry v. Ohio
B. Mapp v. Ohio
C. Miranda v. Arizona
D. Sibron v. New York
E. None of the above

14. All of the following people, except one, can give consent to a search of premises. Select the <u>incorrect</u> choice:

A. Parents for child in certain circumstances
B. Child under 21 - but not valid against parents
C. Average employee - to search his employer's premises
D. Husband, generally, for property jointly possessed with wife
E. None of the above

15. Under the Fruit of the Poison Tree Doctrine:

A. You have a right to an attorney
B. After arrest, you must be brought before a judge without unreasonable delay
C. A gun you have located as the result of an illegal search will not be admitted into evidence
D. You cannot be tried twice for the same crime by the State of New York
E. You have the right to a jury trial in a criminal case

16. A search incident to an arrest will be legal if: Select the most correct choice:

A. The arrest was initially lawful
B. The arrest was bona fide (not a pretext arrest)
C. The search was contemporaneous with the arrest (as soon as possible following the arrest)
D. All of the above are correct
E. Only "B" and "C" are correct

17. The term "Exclusionary Rule" means:

A. Evidence seized without a warrant will be excluded
B. Evidence obtained as a result of an unreasonable search and seizure will not be admissible in court
C. This rule can be avoided by obtaining a search warrant after you have seized the evidence
D. Illegally obtained evidence can be used at the trial of a defendant as long as he is charged with a crime
E. The exclusionary rule of evidence only applies to guns and narcotics

18. Chimel v. California placed limits on the scope of search incident to a lawful arrest. You would not be allowed to search all of the following, except one. Select the one example where you would be allowed to conduct a search.

A. Search rooms other than the one in which you arrest the defendant
B. Search all desk drawers in the room of arrest
C. Open locked closet and search for evidence
D. Arrest made in home, search garage
E. Search items or places in the defendant's immediate control or which he could easily reach

19. Jones, by himself, has robbed a store at gunpoint. Late that night he goes out with his girl friend, Smith, and brags to Smith that he has just held-up the store and now with the money he can buy her a mink coat. Smith, the next day, goes to the police and tells them what Jones told her. Along with the storeowner, the police arrest Jones and charge him with robbery, using his girl friend's statement as part of the evidence against him. Based on the above, select the correct answer:

A. The statements can be used as evidence against Jones
B. The statement cannot be used, since his rights were not read to him before the statement was taken by Smith
C. The statements can be taken, but must be re-inforced with more facts as sworn to by an informer
D. The statement cannot be taken, since probable cause did not exist to make the arrest
E. The statement can be used, but only in a Grand Jury Hearing and not in a trial

20. Sam Villain committed a crime most foul some two months ago. The thought of what he had done continually bothered him and eventually he seeks out the police and indicates the desire to make a statement about it. He wishes to waive his right to remain silent. In order for the waiver to be acceptable, it must:

A. Be acquired only after an attempt to contact his attorney
B. Be acquired only after he speaks to his attorney
C. Meet only the requirement of being voluntarily given
D. Meet the three requirements established for admissibility
E. More than one of the above is correct

21. A liquor store is held up. The police arrive about five minutes after the robbery and Bob and Jimmy, the two owners, give the officers a good description of the suspect. The officers observe a suspect five minutes later and three blocks away who exactly fits the description. The suspect attempts to run but you apprehend him and bring him back to the liquor store for identification. Select the <u>wrong</u> statement.

A. The time is reasonable for an on-the-scene showup
B. The area could be reasonably covered within the time which he was apprehended
C. If the police brought the suspect in with handcuffs and it was not necessary, it could be considered an unfair manner
D. It would be proper to bring the suspect into the liquor store and immediately show him to both owners in a back room
E. The suspect is not entitled to counsel at this point

22. If, upon bringing the suspect into the liquor store, an officer stated to one of the owners, "He started to run but we caught him," this statement would be: Select the most correct answer:

A. Improper, the officers may never say anything at all
B. Proper, it may help the owner to recognize him
C. Improper, this statement may influence the witness
D. Proper, the officer is permitted to say this if it is reasonable or a prompt on-the-scene identification
E. None of the above is correct

23. Certain factors must exist before a showup is considered a "prompt on-the-scene" identification. These factors are all of the following, except:

A. Time C. Amount of force used
B. Area D. Reasonableness E. Fairness

24. In a photo identification where the suspect may be known, which of the following would be incorrect?

A. A minimum of four photos should be used
B. Photos should be set out in a manner similar to a line-up on a table or desk top
C. All photos should be of persons of similar physical description
D. There should be nothing in the photos that would make the suspect's photo stand out
E. None of the above

25. A City Marshal responds to 273 Essex St. He has a valid court order to take enough personal property from apartment 3-B to satisfy a court-ordered judgment. Select the true statement concerning the Marshal's authority:

A. The Marshal is authorized to take the family bible
B. The Marshal does not have the authority to take household necessities
C. The Marshal may take wedding rings found in the apartment
D. The Marshal may take more than enough to satisfy the sum mentioned in the court order
E. "C" and "D" are true statements

26. If you were on patrol on the East side of Manhattan, and a young man approximately 20 years of age approached you and told you he was just refused admittance to Friday's, a restaurant-bar, merely because the owner stated he was only serving regular patrons this night, you would: Select the most correct statement:

A. Inform the young man the owner is legally within his rights
B. Inform the young man that it is a civil matter and the police don't get involved in civil matters
C. Refer the young man to the appropriate Civil Court
D. Tell the owner he must serve him
E. Inform the owner he may be sued

27. A police officer at the scene of an assignment involving a City Marshal should be aware:

A. That a City Marshal operates in a police capacity
B. That a City Marshal settles family disputes
C. That a City Marshal collects money judgments or their equivalent
D. That a City Marshal is an elected official
E. That a City Marshal has an I.D. card but no badge

ON A CLEAR COOL OCTOBER AFTERNOON, 1000 HERBERT LEHMAN COLLEGE STUDENTS GATHERED IN VAN CORTLANDT PARK, IN THE BRONX, FOR THE PURPOSE OF LISTENING TO SEVERAL PLANNED AND ORDERLY SPEECHES WHICH WERE BEING GIVEN BY SOME FELLOW LEHMAN COLLEGE STUDENTS, TO DEMONSTRATE THEIR DISPLEASURE WITH THE METHOD IN WHICH THE CURRENT POLITICAL ADMINISTRATION WAS HANDLING THE INFLATION PROBLEM IN THE UNITED STATES. AT THE COMPLETION OF THE SPEECH-MAKING, THE STUDENTS PLANNED TO CONDUCT A PROTEST MARCH FROM THE PARK THROUGH SEVERAL HEAVILY TRAVELLED CITY STREETS, TO THE HERBERT LEHMAN COLLEGE CAMPUS, A DISTANCE OF TWO MILES, WHERE THE FESTIVITIES WERE TO TERMINATE. BASED ON THE ABOVE PARAGRAPH, ANSWER THE FOLLOWING QUESTION:

28. If the precinct sector car concerned had responded to Van Cortlandt Park, and the officers involved had attempted to prevent the protestors from holding their speech-making activities, it would be correct to say that the officers were:

A. Violating the protestors' 4th Amendment rights
B. Not violating any rights of the protestors
C. Violating the 1st Amendment rights of the protestors
D. Not violating the 1st Amendment rights of the protestors
E. None of the above is correct

29. In the above situation, and just in relation to the speech-making in the park, it would be correct to state that:

A. A permit must be produced by the protestors
B. If a permit is not produced the protestors should be arrested
C. If a permit is not produced the protestors should be ordered to leave the area
D. A permit is not required in this case
E. None of the above is correct

30. If in the above situation the protest march had been stopped by the police on a public street because it had been causing a traffic jam, it would be most correct for the police officers making the stop to do which of the following:

A. Immediately order the march to terminate
B. Request that a permit be produced for use of a City street for protest purposes
C. Arrest all of the protestors involved
D. Arrest only the apparent leaders of the protest march
E. None of the above would be correct

31. If in the course of the above demonstration, several of the protestors verbally abused the police officers present at the scene, it would be proper for the officers to:

A. Arrest as many demonstrators as possible
B. Issue summonses for Disorderly Conduct
C. Tell those demonstrators off
D. Exercise self restraint and ignore the taunts
E. Arrest the abusers for harassment (verbal abuse)

32. On Sunday night at 2100 hours, Police Officer Conti and his partner responded to an assault in progress, with a supervisor. At the scene of the assault, they arrested Patrick Kelly, a lawyer. They took him to the Station House. Kelly was given the Miranda Warnings. He made a statement about the crime to a newspaper reporter in strict confidence. At the trial of Kelly, the newspaper reporter refuses to divulge the contents of his conversation to the court when called to the stand. Answer the following two questions based upon your understanding of the above paragraph:

If Kelly made a statement to Officer Conti, after his Miranda Warnings, this statement would be:

A. Inadmissible in court
B. Admissible in court
C. Inadmissible according to the "Hearsay Rule"
D. Admissible under Res. Gestae doctrine
E. Admissible under best "evidence rule"

33. The basic rule for admissibility of evidence is that it must be:

A. Relevant, material and complete
B. Relevant, complete and competent
C. Relevant, reliable and complete
D. Relevant, material and competent
E. None of the above

34. Officer Jones arrests Tom for possession of a blackjack which Jones observed in Tom's possession. Tom then makes statements and admissions regarding his possession of the blackjack. Regarding the admissions made by Tom, select the incorrect statement in "A" through "D", or if all statements are correct, select "E".

A. If otherwise admissible at trial, they would be an exception to the Hearsay Rule
B. If Tom had remained silent, his silence would be admissible at trial, under the "Failure to Deny" exception to the Hearsay Rule
C. The admissibility of Tom's admissions may be determined at a Huntley Hearing, prior to trial
D. The admissions would not be a "Privileged Communication"
E. All of the above statements are correct

35. Which of the following is not an exception to the Hearsay Rule

A. A Dying Declaration
B. Accomplice Testimony
C. Res Gestae
D. Confession of a Defendant
E. The Business Records of a Professional

36. It is not unusual for a police officer to believe that the person he has arrested is guilty of the crime for which he has made the arrest. Regarding the above, select the wrong statement below:

A. The P.O. may testify as to the facts and circumstances which he observed
B. He should let his personal feelings about the defendant's guilt be conveyed to the judge or jury
C. When the officer takes the stand, he must remember that the D. A., the judge and the jury were not there
D. Often, the police officer has actually been a witness to the offense
E. None of the above

37. As a general rule, witnesses must testify as to facts and not about opinions drawn from facts. Opinions of ordinary witnesses may be admissible regarding such things as all of the following, except:

A. Color, weight, size, quantity, taste, smell
B. Voice identification
C. Speed of vehicles
D. Appearance of intoxication
E. Fingerprints

38. As a police officer, when testifying in court, you should follow all of the following suggestions, except one. Select the one which should not be followed:

A. Answer only questions asked of you
B. Stop instantly when the judge interrupts you, or when an attorney objects to a question
C. Never argue with the defense attorney
D. If your answer was not correctly stated, correct it immediately
E. Try to memorize your notes before taking the stand

39. A police officer may be sued under Section 1983, Title 42 of the United States Code. Which of the following is not an example of improper conduct which may result in a judgment against the police officer under this section:

A. A police officer who uses unnecessary force
B. A police officer who makes an arrest without Probable Cause
C. Unlawful search of an apartment
D. A police officer tries to beat a confession from a suspect
E. All of the above are improper

40. A police officer should know:

A. That actual preparation of the court case begins the moment you become aware of the offense
B. Most criminal cases go to trial
C. That he should try to memorize his memo book entries or other notes so that he will not forget anything
D. That he will not be permitted to look at his memo book in court to refresh his memory
E. That the memo book should contain as little information as possible so that it will not embarrass the officer, if he forgets details of the arrest

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41. Police Officer Dobbs was working on foot patrol and called the station house at 1200 hours, when he was scheduled to go to meal. The switchboard operator, another police officer, directed Dobbs instead to report to the station house in order to escort a mentally disturbed person to Bellevue, Dobbs should:

A. Ask to speak to a superior officer to get a verification of that order from one authorized to give it
B. Inform the switchboard operator that he is "on meal" and will respond when his meal hour is over
C. Proceed to the station house as directed
D. Proceed to the station house and handle the "psycho", but later take up the matter of his being given orders by another police officer with his P.B.A. delegate
E. Inform the switchboard operator that he is "on meal" and direct him to find an officer who has already eaten to handle the job

42. Members of the service should be aware of those procedures used to obtain care for dependent adults and children under 18 whose parent or guardian has been arrested, hospitalized or deceased. Which of the following is most correct regarding such procedures?

A. Inquire if a relative or friend will care for the dependent adult or child. If not, bring to the station house
B. Notify the station house Supervisor if care cannot be provided. He will notify Dept. of Social Services
C. Process child as a "child requiring shelter" and an adult as an aided case
D. Prepare an Aided Report
E. All of the above

43. The wisest policy for a police officer assigned to duty at a management/labor dispute to follow would include:

A. Taking immediate action when any violations are observed, in order to establish police authority early
B. Avoiding shows of sympathy for the cause of either side
C. Attempting to befriend demonstrators, in order to reduce the chances of violence
D. Using bullhorns to give instructions to pickets, in order to gain a psychological advantage over them
E. Permitting some reasonable interference with traffic, in order that demonstrators may make their point

44. The best statement of the role of a crime victim in court proceedings is:

A. Because he has already been victimized once by the offender, the courts allow him to avoid losing great amounts of time by filing a written deposition rather than waiting to testify
B. He is considered merely a witness for "the people," who are the aggrieved party
C. He may try to gain financial compensation for the loss or injury resulting from the crime by suing in the civil courts rather than pressing criminal charges
D. He may choose not to press charges against the offender
E. His refusal to press charges usually makes the arresting officer liable to a false arrest suit

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45. Which of the following police officers will probably be most effective in handling Aided Cases?

A. A police officer who can rationalize all of his biases
B. A police officer who has a preconceived knowledge of the traits and habits of various ethnic groups
C. A police officer who treats "his own" with special care
D. A police officer who acknowledges and works around any prejudicial feelings
E. A police officer who does not recognize any biases or prejudicial feelings within himself

46. Which of the following Department personnel or vehicles should have their radio adjusted to "F-2"?

A. A precinct Anti-Crime Unit's taxicab
B. A patrol supervisor's radio car
C. An officer assigned to guard a foreign mission to the U. N.
D. A plainclothes "decoy" from the City-Wide Anti-Crime Section
E. The auto used by the commanding officer of a Field Services Area

47. Select the statement that best describes the reason for accuracy and completeness in aided report preparation:

A. It is an official record which may be introduced as evidence in legal proceedings
B. In such legal proceedings, it is imperative that information on the Aided Report be as accurate as possible in order to assure justice to those involved
C. The Aided Report is designed so that necessary information can be written and recorded, rather than left to one's memory
D. Reviewing this report will, in most cases, refresh the officer's memory and leave little room for error, if the police officer prepared the Aided Report correctly
E. All of the above are correct

48. P. O. Thomas has just learned from the radio dispatchers that a derelict auto, registration #456LHO, New York, has <u>not</u> been reported stolen. He should now:

A. Prepare a Property Clerk's Motor Vehicle/Boat Invoice and make arrangements for the car to be towed to a police facility
B. Remove the plates, bring them to the station house, and notify the car owner that he has five days to pick up his plates
C. Notify the owner that he is liable to arrest for Creating a Hazard if he does not remove the auto
D. Notify the Department of Sanitation to remove the car
E. Remove the plates, bring them to the station house, notify the owner to pick them up there, and prepare a summons for littering which will be given to the owner by the station house officer

49. Called to "meet a Marshal" at an eviction site, P. O. Pope found that the Marshal had a valid warrant and that the landlord was present, but that the tenant to be evicted was not at home. In these circumstances, Pope should:

A. Not permit the tenant's property to be removed from his apartment in his absence
B. Call for the patrol supervisor and follow his instructions
C. Permit the eviction to proceed and safeguard the tenant's property on the sidewalk until his arrival
D. Make certain that either the Marshal or the landlord assume responsibility for the tenant's property
E. Collect all the information necessary for his Activity Log entry, advise the landlord and Marshal to call for him if they need help (e.g. the tenant returns home) and resume patrol

50. The recorder of an RMP team should realize that it is his responsibility to:

A. Fill out the MT-10. Information concerning the vehicle used is recorded on this form
B. Drive defensively
C. Maintain the vehicle
D. Record in his Activity Log any radio messages directed to his car
E. Place the car out of service when being serviced for gas and oil

51. Security lead seals are used:

A. Only on property that is to be used as evidence
B. On all narcotics vouchered by this Department
C. To identify small items which have no identifying serial numbers such as rings or jewelry
D. Only when vouchering firearms
E. Should never be used on revolvers

52. Regarding observations and descriptions, select one of the following which is a true statement.

A. In order to make useful observations, it is not important that a police officer learn what is normal for a given area
B. Never will a uniformed officer conduct a brief surveillance
C. Abnormalities can be detected, even though an officer is unfamiliar with a given area
D. The alert officer is aware that often the victim and witness are incorrect in their observations
E. None of the above statements is true

53. Vertical patrol is a recent innovation used in many areas within the City. Choose the correct statement with regard to vertical patrol:

A. It is a type of patrol which deploys both foot and RMP officers to those street locations where things are happening
B. It is the type of patrol which is utilized to guard lone premises such as foreign missions, houses of worship and residences of controversial personages
C. A vertical patrol will not be conducted until authorization has been received from the current situations' desk
D. Vertical patrol is a break from Department tradition of working almost exclusively "on the street."
E. Vertical patrols are conducted only in public buildings.

54. When dealing with the mentally ill, a police officer should:

A. Not search the mentally ill because they are not under arrest
B. Not handcuff the mentally ill
C. Not unload his revolver at the hospital or in the psychiatric ward
D. Not force any doors when assisting the escape team maintained by the N.Y.S. Dept. of Mental Hygiene in apprehending their escapees
E. Never ignore verbal abuse

55. Officers Hawkins and Jones were driving their Emergency Service Division vehicle through the 23rd Pct., when they observed a painter fall off his ladder and break his leg. In this instance, they should:

A. Render first aid, call for an ambulance and prepare an aided Report
B. Transport the aided to the nearest City Hospital in their Emergency Service vehicle
C. Render first aid, call for an ambulance and request that a patrol supervisor respond
D. Render first aid, call for an ambulance and request a 23rd Precinct unit
E. None of the above

56. Officer Koch had entered into his log a list of a D.O.A.'s. property which he intended to voucher. He asked the decedent's neighbor, a Mrs. Jones, to certify that the list was accurate by signing it, but she refused saying: "You've got a bunch of costume jewelry on that list. All poor Mrs. Carlson's jewelry is pure gold and silver, not yellow metal or white metal." "Put it down right and I'll sign it, but not the way it is. How do I know you won't switch it for cheap plated stuff on the way to the police station?" In this instance, Officer Koch should:

A. Ask Mrs. Jones to accompany the officers to the station house with the property, so she can certify that it was properly handled
B. Change the "yellow metal" and "white metal" classification to "gold and "silver" and have Mrs. Jones sign the list as a certification that these changes are accurate
C. Examine the items and change the classification of those whose gold or silver content can be determined
D. Explain to Mrs. Jones that Department policy requires that jewelry be listed as "yellow metal" etc., in the absence of an expert's appraisal
E. Request the Department Appraiser to respond and render a judgment

57. Officer Hendrickson was called to an apartment house by its owner. "Look at my ceiling," the landlord argued. "My idiot tenant upstairs let the tub overflow and the water ruined the ceiling! That's the second time in a month! When he's not taking a bath, he dances and keeps me up all night! I want him locked Up." In this instance, the officer should:

A. Arrest the tenant for Criminal Mischief
B. Refer the complainant to Landlord Tenant Court
C. Notify the Department of Buildings through the Precinct switchboard
D. Instruct the tenant to be more careful in the future
E. Refer the complainant to the Bar Association to recommend an attorney to seek civil redress

58. Police Officer Skelly was on the precinct switchboard when a hysterical woman called from her upstairs bedroom to report that a burglar had just entered her house through a first floor window. In this instance, Skelly should:

A. Immediately call "911" to dispatch RMP's
B. Refer the caller to "911"
C. Notify the station house officer and follow his directions
D. Request the sector car concerned to call the station house immediately
E. Dispatch precinct RMPs immediately by walkie-talkie

59. You have arrived at the scene of a motor vehicle accident. Two cars are involved. You must determine the causes of the accident. The best policy to follow in interviewing the participants and witnesses is:

A. Interview all participants together so they may correct the stories the others tell
B. If a statement must be clarified, one should make use of questions that hint at the desired response
C. Ask questions after the participants have told their story so that you may clarify statements
D. Don't allow the person to tell a complete account of the accident, as this will take up too much time
E. Don't question the participants. Determine the causes of the accident by means of objective examination of the scene and your past experience as a police officer

60. Which of the following is <u>not</u> a sign of recent death?

A. Goose pimples on the skin
B. The body appears pallid
C. The pupils become irregular in size and shape
D. The eyes sink in their sockets
E. The lips have a reddish color

61. In which of the following incidents would an Accident Report-City Involved, be prepared?

A. A motor vehicle accident involving a fire engine and a N.Y.C. police radio motor patrol car
B. A prisoner injured in the station house after arrest
C. A motor vehicle accident occurring on the street in which two people died and six people were injured
D. A man steps in a hole in the street and injures his ankle
E. None of the above requires an Accident Report-City Involved

62. Over the last several years, the Department has been decreasing the number of "footmen" and increasing the number of radio cars on patrol. The major reason for this is that:

A. Experience has shown that officers on foot patrol become too friendly with the people on their posts and can rarely do their job objectively
B. Officers on foot patrol more often engage in corrupt activities on their posts
C. Foot patrol is far more expensive and inefficient than radio motor patrol
D. Officers on foot patrol are much more vulnerable to assault and assassination than those on radio motor patrol
E. It is far more difficult to supervise officers on foot patrol than those on radio motor patrol

63. According to Department procedure, a member of the service may determine that a child is neglected or abused in a home, if continued presence of the child in the home presents an imminent danger to the child's life or health. Of the following statements, select the one that is <u>incorrectly</u> stated as being part of Department procedure:

A. A police officer may remove the child from the home with consent of the parents
B. If the parents do not consent to removal, the police officer may still remove the child
C. Only the patrol supervisor can direct the removal of the child without consent of the parents
D. If removal is made, the child is brought to the station house unless immediate hospitalization is necessary
E. At the station house, the officer is required to prepare an Aided Report in duplicate

64. At 0845 hours on a Tuesday, Officers Jones and Peters found a young man who had apparently been stabbed to death in the subway exit at 34th Street and Seventh Avenue. They should first:

A. Make a chalk outline of the position of the body and then move it in order to ease pedestrian traffic
B. Seal off the area until the investigating detectives have completed their examination of the scene
C. Call for a Photo Unit and move the body only after pictures have been taken from all possible angles
D. Have the ambulance remove the body after it has been searched for valuables at the scene
E. Call for the patrol supervisor and leave the decision to move the body up to him

65. You respond to an aided case at 1554 Unionport Road. Miss Carolyn Campbell, who resides there alone, complains of a sore throat and wishes to go to the hospital. After the ambulance leaves, you make a log entry, but do not prepare an Aided Report. Your action in not making an Aided Report was:

A. Incorrect - you must make an Aided Report for every sick case
B. Correct - Aided Reports are only required when there is an injury
C. Incorrect - In addition to the log entry, you shouldhave notified the station house clerk to make the Aided Report
D. Incorrect - Aided Reports are required in cases like this one
E. Correct - the aided was at a residence, conscious, properly identified, had no unaided-for dependents, and no additional police service investigation was required.

66. Officers Mallory and Skelly had responded to a report of a psycho at a Department of Social Service Center. When they arrived, a welfare investigator explained to them that one of his clients, who was sitting quietly in a corner, should be committed for mental observation. The officers should:

A. Obtain a written statement from the welfare investigator and escort the client to a mental health facility
B. Interview the welfare investigator further to satisfy themselves that the client actually needs observation
C. Call for the patrol supervisor and leave the decision of whether or not to "psycho" the client up to him
D. Inform the investigator that in the absence of overt disorderly conduct, a written doctor's statement recommending observation is necessary before the client can be removed to a hospital
E. Inform the investigator that no action can be taken without a written statement from his superior

67. A precinct switchboard operator has received simultaneous calls from a Communication Division trunk line, a precinct callbox and an ordinary (or landline) telephone. In which order should he answer them?

A. Callbox, trunk line, landline
B. Callbox, landline, trunkline
C. Trunk line, callbox, landline
D. Landline, trunkline, callbox
E. Landline, callbox, trunkline

68. When making a notification to the relative of a person admitted into the hospital, there are several rules an officer should adhere to. Which of the following is <u>not</u> a good tactic to use when making a notification?

A. Give an expression of efficiency and concern
B. Be brief but give all required information
C. Avoid telling the true condition of the aided, if it is poor.
D. Give your name, shield number and command
E. Give name of hospital aided has been removed to

69. Which of the following would be considered an abused Child, according to the N.Y.S. Family Court Act?

A. A 15-year old who has been abandoned by his parents
B. A 16-year old whose parent uses drugs to the extent that he loses self-control
C. A 15-year old who is sexually assaulted by his guardian
D. A 16-year old who has been sexually assaulted by his parent
E. A child whose parents fail to provide medical attention and such child is 6 years old

70. Officer Hurcomb was on foot patrol in Riis Park on a hot July Sunday afternoon when his attention was called to a 3-year old girl who cried that her "parents were lost." The first thing Hurcomb should do in this instance is:

A. Call for the sector R.M.P. concerned
B. Request that the patrol supervisor respond
C. Proceed to the station house
D. Notify the station house and radio dispatcher
E. Bring her to a Park Department Lost Child Station

71. A suspect you have stopped challenges you, screaming, "Whom do you think you're stopping, some dummy? I know my rights." You reply, "Listen, I am just doing my job." According to Transactional Analysis, your response is: Choose the best answer.

A. Good - his reply will probably make a parallel transaction
B. Good - it is respectful and adult
C. Good - it puts you in charge
D. Bad - the suspect will not be hooked into an adult ego state
E. Bad - objectivity cannot overcome subjectivity

72. According to Transactional Analysis, a person acting in a mood described as sulky and moody would be best described as acting in:

A. Parent Ego State
B. Id Ego State
C. Child Ego State
D. Adult Ego State
E. Superlative Ego State

73. Relative to the Transactional Analysis material presented during training, select the best statement:

A. The basic interest of transactional analysis is the study of "ego states" which are coherent systems of thought and feeling manifested by corresponding patterns of behavior
B. The three ego states are normal ones, and have value to the individual
C. Each response in T.A. becomes a stimulus for the next transaction
D. The adult ego state examines facts from a rational realistic perspective
E. All of the above

74. A police officer comes upon a woman in a dark street. He questions her and she answers, "Oh, I'm sorry officer; I'm lost, and it's so dark that I was afraid to stop and ask anyone for directions. I'm glad you stopped me, I'm so frightened." From your knowledge of Transactional Analysis, select the <u>incorrect</u> description of the woman's transaction:

A. A spontaneous emotional expression
B. A Felt concept of life
C. Subjective emotional state
D. Moralistic expression
E. Excitement State

75. Sergeant O'Connor observes P.O. Price with long hair that is clearly against Department policy. He tells P.O. Price to get a haircut. Later on, P.O. Price relates this experience to his partner and says in a highly subjective emotional manner, "Who does he think he is...telling me to get a haircut." Officer Price's reaction is an example of what particular ego state, according to Transactional Analysis?

A. Parent
B. Child
C. Adult
D. A combination of both child and adult
E. Overlapping parent and child state

76. Relative to transactional analysis, select the true statement from the following:

A. The "parent" ego state is characterized by an objective emotional state
B. The "child" ego state is characterized by an objective emotional state
C. The "parent" ego state is one in which the person acting within it often moralizes upon his view of proper ethical behavior
D. The adult ego state is characterized by critical teaching and moralistic methodology
E. None of the above

77. Which of the following is <u>not</u> a product of proper utilization of Transactional Analysis?

A. Increased work satisfaction and higher morale
B. Personal gratification in applying new skills
C. Smoother and more satisfying human relations
D. An ability to make decisions subjectively
E. A measurable reduction in the number of human stress situations

78. P. O. Jones, being aware of the effect of heredity and environment on personality development, wishes to utilize this knowledge to ascertain who is committing the burglaries on his post. Of the following choice of suspects, which one could he quite reliably point to as the perpetrator?

A. John Smith, whose parents are known burglars and have been arrested for same on many occasions
B. Fred Davis, who comes from a broken home in a poor neighborhood and definitely displays educational deficiencies
C. Joe Price, who is a member of a neighborhood youth gang and seems to be constantly in trouble
D. Tom Ford, an aggressive, sneaker-wearing troublemaker, who looks like so many burglars P. O. Jones has previously arrested.
E. None of the above

79. If you noticed that your partner (in police work) was experiencing anxiety because of his poor self-concept conflicting with what he really wanted to be, how could you help him? Choose the best answer, according to Rogers:

A. Leave him alone to work it out for himself
B. Change partners - each of you would be exposed to new personal experiences
C. Create an atmosphere of trust and acceptance
D. Advise him to seek psychoanalysis
E. Tell him not to think about the problem but rather concentrate on his police work

80. As he serves the public, a police officer should be cognizant of the behavior of people. By observing people's behavior, he can discern who is acting suspiciously, possibly planning a criminal act; or he may also be able to see who is mentally ill and render them proper assistance. A police officer should therefore have an idea as to what "normal" and "abnormal" behavior is. Select the <u>incorrect</u> statement concerning "normal" behavior.

A. Our judgment of normal behavior is subjectively based on our own behavior
B. Others may judge our "normal" behavior as strange
C. Normal behavior may be defined in relation to one's environment
D. Judging normal behavior in relation to one's environment is too relative
E. Judging normal behavior in relation to one's environment is an unnatural reaction

81. The family is the group that has the strongest influence on an individual 's personality. However, most individuals belong to many groups. When a recruit joins the Police Department he also becomes a member of several new groups: the Department, the recruit company, and the circle of recruits with whom he associates. Normally, these groups will affect his personality in the following way: Choose the correct answer:

A. His personality will be drastically altered because the new values and mores of these groups will have the greatest influence on his personality
B. His personality will not change at all because personality is formed only during infancy and early childhood
C. His personality will be affected to some extent because each new experience is modified by what is already there and is integrated into a new whole
D. His personality will be affected by his new experiences and he will develop a completely new personality reflecting only the new values and goals of the new groups
E. His personality will be unaffected because the dynamic organization of his past experiences will prevent his current experiences from changing his personality in anyway

82. "Loco" is an adult citizen officer"A"meets on his post every day. Everyone in the neighborhood knows "Loco." As he walks down the street, he sings and makes sure he steps on every crack in the sidewalk he passes. A few citizens always complain about "Loco" because they fear he is crazy. Officer "A" investigates and finds that "Loco" is gainfully employed and lives quietly in a nice apartment building. In fact, Officer "A" finds that "Loco's" behavior on the street is the only "strange" thing "Loco" does. Officer "A" assures the complaining citizens that there is nothing to be alarmed at because: Select the correct statement:

A. Loco is probably a hypochondriac
B. Loco is probably experiencing free floating anxiety
C. Loco is probably neurotic
D. Loco is probably psychotic
E. Loco is probably paranoid

83. P. O. Quixote joined the Police Department because he wanted to protect the public and arrest criminals. His first assignment, after graduating from the academy, is directing traffic outside of the Holland Tunnel. After four months of the same assignment, Quixote is frustrated and bored. He spends a good deal of his time daydreaming about being in a precinct where he can make a lot of arrests. Based on the above, select the defense mechanism that covers the facts.

A. Projection
B. Fantasy
C. Regression
D. Undoing
E. Consistency

84. Police Officers often are called on to handle people who are under the influence of alcohol. Approximately six percent of our population has been classified as alcoholics. When dealing with alcoholics, police officers should know that: Choose the <u>incorrect</u> statement:

A. Alcoholism deprives the individual of his ability to control or regulate his life
B. General cultural patterns may play a part in predisposing an individual to become an alcoholic
C. A high percentage of arrests by police are for public intoxication
D. Alcoholism is regarded as a moral problem rather than a psychiatric disorder
E. The treatment of alcoholism is a difficult and complicated process involving physical, psychological and socio-economic problems

85. Officer Donald observes a number of apparent addicts on his post waiting for the doors of a methadone clinic to open. From his training at the Academy, he knows that the advantages of methadone over herein are: Select the incorrect statement:

A. It is administered orally, hence there is less chance for infection
B. It needs to be taken only once daily
C. It is government controlled thus the need to steal is reduced for the individual
D. It is not habit forming
E. The individual can lead a more normal life style

86. The discussion of personality is important from the point of view of how it can help you better understand yourself and then, how it can help you understand others. Select the incorrect statement relative to the subject of personality

A. While heredity and environment play a major role in explaining the personality of individuals there are other factors that are instrumental in forming personality
B. A person's self-concept is his perception of himself as an individual
C. One of the least controversial issues in personality theory is the question of whether, and to what extent, humanwill regulates personality development
D. Our self-concept is influenced by the way others judge us
E. The influence of will power plays in personality development really depends upon the particular individual

87. Anxiety acts as a warning signal when the individual feels threatened. When a solution cannot be worked out on a conscious level by using reason, the ego may be forced to use one or more unconscious defense mechanisms to protect itself. Listed below are some statements regarding anxiety and defense mechanisms. Choose the incorrect statement.

A. In Freud's theory, defense mechanisms are important because any urge involves psychic energy, and if the urge cannot consciously be expended, some other outlet has to be found
B. Defense mechanisms are essential for maintaining a positive self-image and feelings of adequacy in the face of failures, unpleasant situations, and stress situations
C. One of the problems associated with using defense mechanisms is that they don't deal realistically with the problem at hand. Evading unpleasant realities or rationalizing away mistakes is really self-deception
D. Since defense mechanisms operate on relatively unconscious levels, an individual doesn't have the kind of control he normally has with conscious behavior. Without realizing it, they can be overused to such a degree that they produce mental disorder
E. Defense mechanisms are employed consciously by the ego as a realistic solution to stress situations. The individual cannot effectively deal with all the problems confronting him and defense mechanisms are employed to deal with minor anxieties

88. Officer Smith sees his partner take a watch from a D.O.A. Smith questions his partner about the watch but the partner denies any knowledge of the incident. Smith wanted to arrest his partner, but decided to wait till they arrived at the station house. On the way, Smith realizes that arresting cops is a negative goal among many police officers. As he nears the Pct., he begins to find it very difficult to go through with the arrest. Which of the following principles of Avoidance-Approach Conflict best describes Officer Smith's reaction to the situation?

A. The tendency to approach a desired goal decreases as the individual nears the goal
B. The tendency to avoid a negative goal becomes stronger as the person nears the goal
C. The approach tendency increases more rapidly than the avoidance tendency
D. An increase in drive associated with approach or avoidance will lower that possibility of completion
E. A negative goal is never stronger than a positive goal

89. Probationary Police Officer Ryan has just left the Academy and been assigned to the 27th Pct. His new partner, a veteran of 10 years with numerous medals, says, "Look kid, I know these streets; this precinct isn't like the Academy; down here it's survival." In reality, Ryan's new partner is teaching him some bad habits; not picking up jobs, using abusive language, etc. Ryan feels very threatened because these are in conflict with his Academy training. In order to cope with this new anxiety, Ryan unconsciously accepts his partner's bad methods. In fact, Ryan begins doing the same things. Which of the following defense mechanisms did Ryan use to cope with this new stress?

A. Projection
B. Introjection
C. Undoing
D. Regression
E. Repression

90. Officer Jones is a recent graduate of the Police Academy and since he has been assigned to the precinct, his children have been sick for a short time. Because of this, he has lost all interest in his work. He is chronically sad and he has lost all confidence in himself. He has suffered fatigue and a considerable loss of weight. In this case, one could say Jones was suffering from:

A. Depressive reaction
B. Dissociative reaction
C. Conversion reaction
D. Obsessive compulsive reaction
E. Phobic reaction

91. Officer Jones was being interviewed for the position of Field Training Specialist. The Captain who interviewed him stated he would not be considered because of his serious drinking problem. Jones' partner, Smith, received the designation instead. Jones shrugged this off and stated "I am glad Smith got the gold shield instead of me. I would have turned it down if they offered it to me." This is known as the defense mechanism of:

A. Denial of reality
B. Fantasy
C. Rationalization
D. Repression
E. Undoing

92. Generally, the difference between neuroses and psychoses is:

A. Neuroses generally grow into psychoses
B. Neuroses are overt behavior disorders, whereas psychoses are abnormal ideas harbored by the mentally ill individual
C. Non-existent, since both psychoses and neuroses are classified by the same "functional" psychiatric method
D. Extremely difficult to determine, due to inherent similarities in identification procedures
E. Basically one of degree, rather than type

93. You are called to the home of a person who has repeatedly threatened suicide. It is necessary to take the person to Bellevue Hospital for psychiatric examination. You should be aware at all times of the following, <u>except</u>: Choose the <u>incorrect</u> choice:

A. It is not always necessary to handcuff the person
B. It is best to bring a relative or friend to the hospital along with the person
C. Only a very small percentage of mentally ill persons are violent
D. If the person refuses to go to the hospital, it is probably best to tell him he must be taken elsewhere, for example, a friend's house, but once in the radio car, take him to the hospital. This will avoid violence
E. A violent mentally ill person who will not calm down must be restrained (usually by handcuffs). The law authorizes this practice

[illegible] human potentialities
[illegible] himself completely satisfied

[illegible] but through self-actualization he
[illegible]
[illegible] is satisfied through sex

[illegible] questions on information supplied.
[illegible] the scene of an accident which had
[illegible] earlier. In conducting interviews
[illegible] determine the cause of the accident,
[illegible] his own feelings, emotions and
[illegible] human beings, he makes judgements based
[illegible] answer.

[illegible] point of view
[illegible] is influenced by Social Context
[illegible] and Personal Bias
[illegible] things subjectively
[illegible] of the events

[illegible] may attempt to judge the personalities of the
[illegible] he seeks to determine the cause of the above
[illegible]. Officer Green should be aware that personality:
[illegible] the <u>incorrect</u> answer:

- [illegible] be easily perceived by our senses and therefore can
[illegible] scientifically examined
- [illegible] unique because each individual is different from every
[illegible] individual
- [illegible] not easily predictable
- [illegible] incapable of generalization
- [illegible] not completely developed in human beings at birth

[illegible] the article on personality, the <u>least valid</u> reason
[illegible] the term "psycho" in the presence of the person
[illegible] or his family, is:

- [illegible] is a vulgar and offensive term
- [illegible] behavior is not necessarily a sign of mental
[illegible]
- [illegible] behavior is not necessarily a sign of mental
[illegible]
- [illegible] his experience, is qualified to make
[illegible]
- [illegible] discourtesy to the afflicted and his family

[illegible] on patrol in a RMP car, hates to deal
[illegible] public. He tries to cover up this weakness
[illegible] by asking his partner to handle all
[illegible] the public. He has a talent to do
[illegible] in the car to do it when his partner deals
[illegible] correct defense mechanism that
[illegible].

[illegible] C. Reaction Formation
[illegible] D. Projection E. Undoing

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99. You are a police officer dealing with a persistent juvenile delinquent. While talking to the parents you discover that the youth has an identical twin who never gets into trouble and is an excellent student. They were both raised together in exactly the same way. How can you account for the difference. Choose the correct answer:

A. You can't account for it since the twins have exactly the same genetic predispositions
B. You can't account for it since the twins have exactly the same physical environment
C. You can't account for it since the twins always had the same cultural environment
D. Differential susceptability may account for it even though they are exposed to identical environmental factors
E. Personal experience, as an external influence on you as the police officer and your personality development may account for the youth's delinquency

100. Officer Jones has arrested a juvenile for stealing a car. The juvenile is introspective and moody, much different from the other youths he associates with. Jones thought that if all the kids were alike, law-enforcement would be easier, because an officer could predict behavior and better enforce the law. There is one basic problem, according to the article on Personality. that Jones overlooks and that is:

A. The problem of personality is how to account for man's uniqueness
B. Except in cases of glaring inadequacies, heredity dramatically affects personality
C. Basically, each individual is affected in the same way by his environment
D. Culture has little effect on the personalities of members
E. Even though an individual does not have contact with a group, normal personality will develop

POLICE DEPARTMENT
City of New York
Recruit Training School

LAW - 3RD EXAM - COMPANIES 14 TO 25

1. Bill Montgomery is shopping by himself on a Saturday afternoon when he witnesses a person being badly beaten with a baseball bat, by a man looking exactly like him. The police arrive on the scene and receive a description of the man who committed the crime from five eye witnesses. The police search the area for the perpetrator and come upon Montgomery who, when questioned by police, refuses to give any answers. The police place Montgomery under arrest for Assault-Felony and Resisting Arrest when he refuses to go and must be forcibly subdued. Answer the following two questions, based on the above paragraph. If Bill Montgomery managed to free himself from the police while being taken to the station house, what, if any, would be the appropriate additional charge?

A. Escape - misdemeanor
B. Escape - felony
C. Escape - arrest
D. No additional crime

2. If Bill Montgomery succeeded in getting away from the police while he was being fingerprinted in the station house, what, if any, would be the appropriate additional charge?

A. Escape - misdemeanor
B. Escape - felony
C. Resisting arrest
D. No crime

3. Joe Lewis, after having been convicted of rape, felony, and while in custody pushes the court officer and runs from the courtroom. Later, when Joe is re-arrested, he should be be charged with:

A. Escape - misdemeanor
B. Escape - felony
C. Reckless Endangerment
D. Menacing
E. Rape

4. You stop an automobile and observe a plastic bag containing a controlled substance on the floor. In this case you should : Select the correct choice:

A. Arrest all the occupants in the car
B. Arrest the driver and the individual that dropped the bag
C. Arrest only the individual that dropped the bag
D. Do not arrest any of the occupants, because the narcotics is on the floor
E. All of the above are incorrect

5. Joe, a N.Y.C. police officer, attempts to arrest George for Disorderly Conduct, not committed in his presence, at a shopping center near his home in Suffolk County. Jim, a friend of George, tries to stop the arrest by placing himself between Joe and George. Jim could be charged with:

A. Disorderly Conduct
B. Resisting Arrest
C. Attempted Escape
D. Assault - 3rd degree
E. None of the above

6. Regarding the crime of Resisting Arrest, select the correct statement:

A. It only applies to police officers
B. A culpable mental state is not required
C. The underlying arrest need not be authorized
D. Resisting arrest and Assault are mutually exclusive
E. All of the above are incorrect

7. Section 265.15 of the Penal Law creates certain presumptions pertaining to the possession of dangerous weapons. In accordance with Section 265.15, it would be most correct to state that a machine gun found in a vehicle with four occupants is presumptive evidence that:

A. The machine gun is unlawfully possessed by all persons in the vehicle
B. The machine gun belongs only to the registered owner of the vehicle
C. The machine gun is unlawfully possessed only by the operator of the vehicle
D. The machine gun can only be unlawfully possessed by one person at any given time
E. All of the above are false statements

8. Regarding possession of weapons in the Penal Law, select the <u>wrong</u> statement:

A. A 15-year old who possesses a machine gun or an air rifle, shall be adjudged a Juvenile Delinquent
B. An alien who possesses a rifle is guilty of a misdemeanor or felony depending on a previous crime conviction
C. A person who has a previous felony conviction commits a misdemeanor when he possesses a rifle or shotgun
D. A person who possesses an explosive substance is guilty of a felony
E. A person who possesses a firearm silencer is guilty of a felony or misdemeanor depending on whether it is on a firearm or not

9. Joe College enters the State University Science Building. He is carrying a high powered rifle in a case which was designed for the rifle. Joe could be arrested and charged with:

A. No crime, because the rifle is in a case
B. A felony, because he is in possession of a rifle
C. Criminal Negligence
D. A misdemeanor, because he does not have written permission from the University
E. "C" and "D" are both correct answers

10. The term "Deadly Weapon" as described in section 10.00 P.L. and Chapter 29, page 1 of your Law Guide does <u>NOT</u> include:

A. A switchblade knife
B. A dagger
C. A blackjack
D. A Bludgeon
E. Metal Knuckles

11. Pat Kelly and Joe Smith were feuding neighbors. One Saturday night, after a heated argument, Joe went to the roof of his home with a rifle and fired a shot over Pat's head who was drinking beer in his apartment. Joe's intention was to frighten Pat, but the bullet bounced off the fireplace and struck Pat's wife who was 20-weeks pregnant. Pat's wife was seriously injured. In the foregoing incident, Joe's action of firing a shot to frighten Pat would constitute a charge of:

A. Attempted murder on Pat and his Wife
B. Attempted murder on Pat - assault on his wife
C. Reckless Endangerment on Pat - assault on his wife
D. Assault on Pat. and his wife
E. None of the above

12. John Jones died of a heart attack while resting on the sofa of his living room in his home, in Patchogue, L. I. Smith, a hired killer, engaged to kill Jones, entered Jones' home and seeing someone "resting" on the sofa fired several shots into the body. The killer believed Jones was alive and resting on the sofa. Based solely on the foregoing circumstances, it would be correct to state that the most serious charge Smith could be charged with is:

A. Murder
B. Attempted murder
C. Assault-felony
D. Attempted assault-felony
E. No crime

13. Tom came home late from work one night and discovered that another man was in his house making romantic advances toward his wife. He became so outraged that he took a knife from the kitchen and killed the other man. Tom should be charged with:

A. Manslaughter in the first degree
B. Homicide
C. Assault
D. Murder
E. No charge (because of the affirmative defense in murder)

14. Tom, intending to cause serious physical injury to Jim, fires a bullet at him from a distance of about 100 ft. The bullet misses Jim and kills Mary. Based on the above facts, it would be most correct to state that Tom is guilty of:

A. Murder
B. Menacing and Murder
C. Reckless Endangerment
D. Manslaughter
E. Attempted Reckless Endangerment

15. Tom mischievously throws a rock through a window of a private house without caring if anyone is present. According to the Penal Law, which of the following is <u>incorrect</u>?

A. Tom is not guilty of attempted reckless endangerment
B. If someone inside is physically injured, Tom is guilty of assault, a misdemeanor
C. If no one is injured inside, but a substantial risk of seriously physical injury is created, Tom is guilty of Reckless Endangerment, a misdemeanor
D. If someone is inside, but fortunately does not suffer a physical injury, Tom is guilty of attempted assault
E. Reckless Endangerment may be a felony or misdemeanor

16. Tom and Danny are life-long enemies. One Saturday afternoon as they are playing baseball on rival teams, they got into a heated argument over a close play at home Plate. Tom, intending to cause Physical Injury to Danny, throws a left hook at Danny's head but misses and strikes the umpire, causing protracted disfigurement to his nose. Tom could be charged with:

A. Assault as a felony (an intentional act plus an injury)
B. Assault, a felony (a Reckless act plus an injury)
C. Assault - misdemeanor
D. No crime - Tom did not intend to injure the umpire

17. If in the above situation, Tom intended to cause serious Physical Injury, he could be charged with:

A. Assault - felony (Intentional act)
B. Assault - felony (Reckless act)
C. Assault - misdemeanor
D. No crime - Tom did not intend to injure the umpire

18. Mr. Smith, a spectator at the baseball game, excited over the fight at home Plate, knocked over a heavy beer bottle which he negligently placed on the ledge. The bottle struck a person in the stands below, causing a minor injury. Mr. Smith could be charged with:

A. No crime - he did not intentionally throw the bottle
B. Assault - felony
C. Assault - misdemeanor
D. Menacing
E. Harassment, if no injury occurred

19. John, Bill, Mike, Joe and Fritz decide to take a leisurely drive in Joe's car, which is not stolen. Fritz, who is a methadone patient, has in his possession a single methadone tablet which is not in its original container. Fritz takes out the tablet and is showing it to John, Bill, Mike and Joe when Officer Brown approaches. In this case, Officer Brown should do which of the following?

A. Arrest only Fritz
B. Arrest only those who are looking at the tablet
C. Arrest Joe because he is not in the lawful and proper pursuit of his trade
D. Arrest those who are sitting next to Fritz
E. Arrest all of the occupants of the vehicle

20. Bill acquires a hypodermic syringe and needle unlawfully which he does not use but gives to Mary. Select the most correct choice below:

A. Bill did not sell the hypodermic instrument
B. Bill is guilty of a felony
C. Bill is guilty of a misdemeanor
D. Bill is not guilty of any crime
E. None of the above is true

21. John and Bill, police officers, are riding in an R.M.P. on the Lower East Side. As the R.M.P. turns the corner, several youths throw bottles at the car, breaking the R.M.P.'s windshield and severely cutting Bill's face. The youths are apprehended and are over 16 years old, they should be charged with:

A. No crime, since it would be hard to prove the culpable mental state required in this case
B. Juvenile delinquency
C. Assault as a misdemeanor
D. Assault as a felony
E. Criminal negligence

22. John Henry, an elderly man who has frequently been mugged in a park near his home, decides to do something about it. He buys some cherry bombs from the local fireworks dealer. On Tuesday after finishing work, John Henry leaves for home taking his usual direction. When he enters the park near his home, a gang of toughs begins to approach him. When he sees this happening, he lights up the cherry bombs and throws them in the direction of the gang, intending to place them in fear of imminent serious physical injury. The gang laughs at the explosion from the cherry bombs and decides to chase John Henry home. John Henry should be:

A. Arrested for attempted assault
B. Arrested for menacing
C. Arrested for reckless endangerment
D. Not arrested since a crime was not committed

23. Mr. Jones holds a loaded gun to his wife's head and tells her to stay away from the good-looking bachelor down the block. Select the correct statement:

A. Mr. Jones can be charged with assault
B. Mr. Jones can be charged only with reckless endangerment
C. Mr. Jones may be charged with menacing
D. Mr. Jones can only be charged with menacing
E. Mr. Jones is not guilty of anything

24. Phil mails a neighbor a letter each day with obscene material in it. He does it to get even with him for an argument they recently had. Phil could be charged with:

A. Menacing
B. Harassment
C. Aggravated Harassment
D. Mail Tampering
E. No crime, since there was no alarm caused

25. John calls Mary by telephone for the purpose of making a date with her. Mary tells John to get lost. John then, intending to threaten her, tells Mary that he has a shotgun and will shoot her tomorrow night, unless she keeps the date with him. Select the most correct statement:

A. John could be charged with Aggravated Harassment when he first made the phone call
B. John could only be charged with Aggravated Harassment after he threatened Mary
C. John could be charged with both Aggravated Harassment and Menacing
D. John could not be charged with Aggravated Harassment since he called Mary to make a date with her
E. None of the above statements is true

26. John, intending to annoy Mr. and Mrs. Jones, repeatedly rings their door bell and then runs away. On answering the bell and finding nobody there, Mr. and Mrs. Jones become annoyed. John is guilty of:

A. Menacing
B. Aggravated Harassment
C. No offense
D. Tort only but no criminal offense
E. Harassment

27. Bill, a prisoner that officer Smith once arrested, is released from jail. The next day he observes Officer Smith and to annoy him decides to follow him on his post for most of his tour. Bill could be charged with:

A. Aggravated Harassment
B. Menacing
C. Harassment
D. No charge, it is within the scope of the officer's duty
E. Reckless Endangerment

28. Sam sees Officer Jones writing a parking summons for Sam's auto. Sam becomes angry, and intending to prevent Officer Jones from writing the summons, he shoves Officer Jones, causing Jones to drop his summons book. Of the following, the most proper charge against Sam would be:

A. Disorderly Conduct
B. Harassment
C. Assault, Misdemeanor
D. Assault, Felony
E. Aggravated Harassment

29. Two officers on radio motor patrol receive a radio call directing them to respond to a robbery in progress at a supermarket. Upon arriving at the scene, they observe three males fitting the description, get into a waiting automobile and drive away. According to Dept. Policy, on the use of firearms, select the correct statement.

A. The officers could shoot at the vehicle to effect the arrest in all cases
B. Shooting at a fleeing vehicle is prohibited in all cases
C. The officers could shoot, only if they believed that one of the occupants possessed a loaded firearm.
D. The officers could shoot only if the occupants were using deadly physical force by means other than the vehicle against the officers
E. The officers would be justified in shooting at the fleeing vehicle only if it became apparent that they could not otherwise apprehend it

30. In connection with the above situation, select the correct statement regarding the firing of a warning shot:

A. A warning shot should be fired whenever possible, as it usually will cause the perpetrators to stop
B. A warning shot should be fired only if there are few people around
C. A warning shot should never be fired
D. A warning shot should be fired only in emergency situations
E. None of the above is correct

31. Tom makes a home made bomb from a metal pipe. He intends to use it to blow up Martin's house. As he approaches the house and is about to hurl the bomb, he is arrested by auxiliary police officer Jones, who is off-duty, walking his dog. According to the Penal Law, select the incorrect statement:

A. Tom was committing a felony for possessing the explosive substance
B. The bomb made by Tom is not a deadly weapon
C. If Tom was preparing to throw the bomb when the auxiliary P. O. arrived, the auxiliary P.O. then could use deadly physical force to prevent the arson
D. If Tom was running away from the scene of the attempted arson, a P.O. could use deadly physical force, if necessary, to arrest him
E. If Tom had run away from the auxiliary P.O., the auxiliary P.O. could have legally used deadly physical force to arrest him

32. As a police officer, you may, in certain circumstances, employ the use of Deadly Physical Force. Select the most correct answer:

A. You have reasonable cause to believe that you are preventing or terminating the use of deadly physical force against yourself
B. You have reasonable cause to believe that you are preventing or terminating any degree of robbery
C. You have reasonable cause to believe that you are preventing or terminating any degree of kidnapping
D. You have reasonable cause to believe that you are preventing or terminating a burglary of a dwelling or occupied building
E. All of the above are possible circumstances for which the use of deadly physical force could be authorized

33. Which of the following choices best defines Serious Physical Injury?

A. It is impairment of physical condition
B. It is causing substantial pain
C. Any physical contact is a serious physical injury
D. It may consist of a substantial risk of death
E. None of the above is correct

34. Under New York City Police Department Policy re: Use of Deadly Physical Force; select the incorrect choice:

A. Shooting should be the last resort
B. Only the minimum amount of force necessary should be used
C. You are never allowed to shoot at a moving vehicle
D. Firearms will not be fired if the lives of innocent persons may be endangered
E. Firearms may only be used against animals as a last resort

35. Deadly Physical Force can be used to prevent the theft (larceny) of:

A. $500 C. One million dollars
B. $5,500 D. Any amount of property
E. Deadly physical force is never used to arrest a person who has committed only a larceny

36. A robbery has been committed. A complainant is brought to the station house after giving the first police officer on the scene a good description. The police officers then observe a suspect that fits the description. The suspect runs, but is apprehended and arrested. After returning to the S.H., the complainant states she is fairly sure he is not the suspect. The most appropriate procedure for you to then follow would be:

A. To continue the processing until she is more definite
B. To issue a DAT and on the return date let the prosecutor decide if there might be enough information to prosecute
C. To immediately bring the suspect to court for arraignment
D. To immediately release the person from custody if you are satisfied [illegible]

37. Assume that in the above question, the arrest is proper (or one where you actually observed a suspect committing the offense). It would be proper to fingerprint the suspect because it was a felony. You must also fingerprint if an offense is: Select the wrong answer:

A. A misdemeanor defined in the P. L.
B. A misdemeanor defined outside the P. L
C. Loitering, 240.35 sub. 3 P.L. deviate sex
D. Any other offense which is a felony
E. Grand Larceny (auto)

38. If an officer is struck on the wrist with a rock during a riot and substantial pain results, he has experienced which of the following:

A. Serious physical injury
B. Aggravated serious physical injury
C. Physical injury
D. Aggravated physical injury
E. None of the above

39. Police Officer Al Grave made an arrest for a violation. When Al took the suspect to the station house, he decides to fingerprint him. Although, the arrest is for a violation, Al is using correct procedure. Select the best reason for Al's decision to fingerprint the person arrested

A. The suspect may be wanted for some other crime
B. The suspect is being sought by other law enforcement agencies
C. Al was not able to ascertain the suspect's identity
D. Al reasonably suspects that the identification given is not correct
E. All of the above

40. John McCarthy robs a jewelry store, puts the jewels in his car, and drives off. The police apprehend him ten minutes later. John McCarthy is considered to possess the jewels because he had which of the following types of possession?

A. Physical
B. Automobile possession
C. Defendant's control
D. None of the above

41. Police Officer Edwards issued a summons to a man who allowed his three English Sheepdogs to run free in Central Park. According to the Police Student's Guide, this offender should be charged with a violation of:

A. The New York City Administrative Code
B. The Department of Parks, Recreation and Cultural Affairs Regulations
C. The New York City Health Code
D. The New York City Animal Control Act
E. The New York State Conservation Law

42. One of the major functions of the Police Department is the control of pedestrians and vehicular traffic. Which of the following statements concerning traffic direction is most correct?

A. An officer assigned to traffic duty usually should select a position in the center of the intersection or at one of the corners
B. If a vehicle stops on a crosswalk in compliance with an officer's signal, it is generally better to let the vehicle drive on rather than block the crosswalk
C. Whistles should not be used
D. Police officers may not countermand traffic signals when directing traffic
E. None of the above

43. Officer Morris Dempshey, who is permanently assigned to the 28th Precinct, is resting in his home in Nassau County on his regular day off. If alerted by telephone as part of a "Rapid Mobilization and Unusual Disorder Plan," he should report:

A. To his resident precinct, since it is most likely that no obstacles will be found in travelling
B. To the 50th Precinct
C. To the Chief of Operations' Borough Office
D. Not necessary to report since it is the officer's regular day off
E. To his assigned command, the 28th Precinct

44. "In Progress" calls require rapid and usually silent response, so that the siren and dome light should be used only when necessary. The siren should always be used, however, when:

A. Responding to a report of a man with a gun
B. Responding to a bank hold-up
C. Responding to a report of a 10-13
D. Reporting to the scene of a major explosion
E. Easing traffic congestion

45. Officer Jones of the Manhattan South Task Force issued a summons to the owner of a parking lot for accepting more cars than his Authorized Capacity permitted. He should make this summons returnable to:

A. Parking Violations Bureau
B. Part 5 of the Manhattan Criminal Court
C. Administrative Adjudication Bureau
D. Part 6 of the Manhattan Criminal Court
E. Part 7 of the Manhattan Criminal Court

BEST COPY AVAILABLE

46. Although not all tow cars in New York City operate under the same restrictions, certain regulations are applicable to all towing operations. Among them are:

A. Tow owners must be at least 18 years old
B. The driver of a tow car must be a licensed tow car operator and must also possess a N.Y.S. Operator's License
C. All licensed tow cars bear a medallion issued by the License Division and affixed by a Hack Inspector
D. All tow cars must be painted yellow with blue trim
E. All of the above

47. On radio motor patrol in the 78th Pct., you observe a motorist stop his vehicle in a "No Standing" zone, in order to discharge several passengers. According to the Traffic Regulations:

A. A motorist is in violation of the "No Standing" regulation
B. The motorist would be in violation, if he were in a "No Parking" zone
C. The motorist would be in violation of the "No Standing" regulation, unless he kept his engine running
D. The motorist is not in violation
E. The motorist would be in violation only during the hours of darkness

48. A group of officers were discussing their "styles" of dealing with traffic violators. Which of the following statements best reflects Department policy?

A. "If you let them know who is boss right off the bat, you don't get any guff from them. You've got to come on strong."
B. "Let them holler if they want. They're usually upset and it gets it off their chests. Nobody likes to be shown he is wrong
C. "A sharp cop has all the answers to guys who raise a fuss over a lousy traffic ticket. When you're on the street a while, you learn to put anybody down."
D. "I'm a human being, too! Nobody's going to give me a lot of lip and get away with it. I don't get paid enough to take abuse and I'm not going to."
E. "Some guys get the message when you give them a 'lecture' and some other guys need a ticket. I never give anybody both, though, and I'll never lecture a man in front of his family

49. Officer Reinos has stopped a youthful-appearing driver for running a red signal light at 56 St. and 5th Avenue. Upon examination, he discovers that the young man is 19 years old and possesses a Class 6 (Junior Operator) license, issued when he was 16. Officer Reinos may:

A. Summons the young man for "disobey signal light" and for "unlicensed operator" only if it is between 8:00 P.M. and 5:00 A.M.
B. Summons the young man for "disobey signal light"
C. Summons the young man for "disobey signal light" and for "unlicensed operator," unless a licensed New York State operator is in the auto
D. Summons the young man for "disobey signal light" and inform him that he should have exchanged his license for a senior operator's on his 18th birthday
E. Summons the young man for "disobey signal light" and "unlicensed operator," unless he has completed an accredited driver's education course

50. Drivers must, at all times, comply with any directives given as follows:

A. By police officers and school crossing guards, by hand or mechanical device
B. By police officers, and bridge and tunnel officers by hand, whistle or mechanical device
C. By police officers, bridge and tunnel officers or school crossing guards, by hand or mechanical device
D. By police officers, bridge and tunnel officers or school crossing guards, by hand, voice, whistle or mechanical device
E. By police officers only, by hand, voice, whistle or mechanical device

51. While assigned to Radio Motor Patrol, you receive a message from the Communications Division to report to the scene of a past robbery (10-20). Which of the following actions would be most correct?

A. Respond promptly
B. Use caution as the robbery may still be in progress
C. Be alert to the possibility of an ambush
D. Never stop the radio car directly in front of the actual robbery scene
E. All of the above

52. Which one of the following offenses would not be a fingerprintable offense?

A. All felonies outside the Penal Law
B. All Misdemeanors outside the Penal Law
C. All Felonies within the Penal Law
D. All Misdemeanors within the Penal Law
E. 240.35 P.L. Subd. 3, Loitering for deviate sexual intercourse

53. The major reason that members of the service are not to look at or accept the "Record of Violations" as a driver's license is that:

A. The court may later dismiss the case on the grounds that a summons was issued because of the driver's past record, rather than the offense charged
B. The driver may not be licensed, but may be driving with this half of the license of a friend or relative
C. The driver may have retained this section after his license was revoked in a prior court proceedin
D. This half of the license does not contain all the information required by captions of the Universal Summons
E. None of the above is a valid reason why an officer should not examine a "Record of Violations"

54. Which of the following circumstances must be present before a "smoking exhaust" summons can be issued to the operator of an auto?

A. The smoke must be visible
B. The auto must be moving
C. The auto must be parked and idling
D. The officer must have received special training in the use of the Ringelmann Chart
E. The air temperature must be in excess of 40 degrees

55. Listed are five statements regarding traffic violations found in the Vehicle and Traffic Law of New York State, and the Traffic Regulations of New York City. Which of these listed has been correctly stated?

A. In New York City, the speed limit is 35 M.P.H. except where official signs indicate a different maximum or minimum
B. Drivers are required to signal their intention to turn at least 200 feet before reaching the turn
C. A vehicle's headlights are required to be on between 1/2 hour after sunset and 1/2 hour before sunrise
D. At night, a vehicle must display two red tail lights visible for a distance of 500 feet
E. Motorists must drop their headlights to low-beam when they are within 500 feet of an oncoming vehicle, or 300 feet of a vehicle which they are following

56. Which one of the following would be recorded on a Complaint Report (U.F. 61)?

A. "Pick up" cases of children charged with Juvenile Delinquency
B. Complaints of military deserters within N. Y. C.
C. Arrests by and for other authorities
D. Complaints alleging corruption by members of this Dept., e.g., Bribery
E. Civil arrests, (orders of protection, paternity warrants)

57. Whenever a field service officer issues a summons for an air pollution violation, he must:

A. Notify the patrol supervisor
B. Notify the Chief of Operations
C. Notify an officer who has had special training from the Environmental Protection Agency
D. Notify the Commanding Officer, Emergency Service Division
E. Notify the station house supervisor

58. Which of the following would be considered a motor vehicle accident, as that term is defined in the Police Student's Guide?

A. A N.Y.C. Transit Authority train collides into another train at the 23rd St. I.R.T. station
B. A boy riding his bicycle on a city street collides into a pedestrian, injuring both parties
C. Two cars collide while both were attempting to find a parking spot in the Macy's parking lot at 59th St., and Queens Blvd. One of the drivers is injured
D. A man driving into the driveway of his private house, hits the wall of his garage, resulting in injury and property damage
E. None of the above is a vehicle accident

59. The police officer has a number of sources of information from which he can obtain assistance in the investigation of stolen vehicles. Which of the following is the most correct statement regarding these sources and the assistance they provide?

A. The Motor Vehicle Identification Desk can be called in order to verify ownership of a vehicle
B. An officer can call the Stolen Vehicle Desk to determine if a vehicle has been repossessed, impounded, previously reported stolen or wanted in connection with a felony
C. The Information Section will give the officer a check on the validity of a driver's license and also inform the officer of any license suspensions or revocations
D. An officer can request a signal 10-15 through the Communications Division in order to determine if a vehicle has been reported stolen
E. All of the above

60. Police Officers Mott and Delancey were dispatched by the switchboard operator to a report of loud music coming from a record store. If they find this complaint true, according to the Student's Guide, they should:

A. Issue a summons for a violation of the Administrative Code
B. Refer the complainant to court
C. Warn and admonish the offender
D. Notify the Dept. of Consumer Affairs through the Precinct switchboard
E. Summons the offender and forward a form LD - 6 to the proper licensing agency

61. A motorist has been stopped by the police for failure to stop at a stop sign. When approached by the officer and asked for his license and registration, he stated that he left his wallet with all his identifications at home. The officer's best action at this point would be to:

A. Call for the patrol supervisor and be guided by his instructions
B. Give a summons based on the verbal information given by Mr. Obnoxious
C. Ask the violator to accompany him to the Station House for the purpose of verifying his identity
D. Escort the violator to his home so he may obtain his license and registration
E. Arrest Mr. Obnoxious for being an unlicensed driver

62. Which of the following is most accurate?

A. Officers directing traffic should use their whistles often, to gain driver attention
B. Cars which have stopped on a crosswalk in compliance with an officer's signal should be directed across the intersection to ease pedestrian crossing
C. Officers assigned to traffic should handle any aided cases they encounter, freeing R.M.P. units for patrol
D. Patrol officers should not hesitate to direct traffic when they perceive the need
E. All of the above are correct

63. Which of the following would be true of a driver who made a U-turn on 3rd Ave. between 20th and 21st Streets?

A. As long as he did not interfere with vehicle or pedestrian right of way, his turn would be legal
B. His turn would be illegal, only if he crossed a double solid line
C. His turn would be illegal, only if he made it during official "rush hours"
D. His turn would be illegal, under any circumstances
E. His turn would be illegal, unless he were operating a commercial vehicle about to load or unload merchandise

64. In reference to Department buildings and property, a police officer should know that:

A. When the city may be involved in a civil suit, an Aided Report and an Accident Report-City Involved will be made out in all cases, except a vehicle accident.
B. A police officer who discovers the loss of his shield or revolver, should notify only his commanding officer
C. When Department property, other than a motor vehicle, is discovered damaged, the officer involved should notify the patrol supervisor
D. All civilians visiting a Department facility shall be shown courtesy and allowed to remain therein
E. If a Dept. vehicle is damaged in an accident, a Police Accident report & Accident Report-City Involved should be made out

65. On patrol in the 34th Pct., you discover a stolen vehicle which was the subject of an alarm in more than one jurisdiction. The car was stolen in Connecticut and used in a robbery in Queens. Which of the following forms would be required in this case?

A. Complaint Report
B. Property Clerk's Invoice Report
C. Property Clerk's Motor Vehicle/Boat Invoice Report
D. Vehicle Report
E. Police Accident Report

66. In which of the following instances is a Juvenile Report (form YD-1) required?

A. A drunk seventeen-year old
B. A 20-year old youth from Boston stranded without funds or shelter
C. A 9-year old sodomy victim
D. A 10-year old left home alone for three days by his parents
E. All of the above

67. Which of the following statements re: marking of evidence is correct?

A. A discharged cartridge case should be initialed at its base
B. Spent bullets are initialed on their tops
C. Counterfeit money need only be initialed by the person who discovered it
D. Alcoholic beverages must be adequately stopped or capped to prevent leakage, sealed with tape and marked
E. Marijuana in rolled cigarette form will be marked at both ends

68. Two gun-toting males, enter the Surfside Motel, and rob the manager of $3,000, the day's receipts. In addition to the investigation, alarm and Complaint Report, the police officers should:

A. Forthwith notify the Central Detective Bore dispatcher, to request the Boro Robbery Squad
B. Immediately notify the Precinct Investigating Squad
C. Notify the Boro Robbery Squad direct, by private phone
D. Notify the Boro Robbery Squad direct, through R.M.P. radio or portable radio
E. Prepare an Intelligence Report

69. The primary duty of a police officer called to the scene of a possible bomb is to protect life and property. In connection therewith, certain precautions must be followed to insure the safety of all concerned at the scene. Which of the following is <u>incorrectly</u> stated as being such a precaution?

A. Don't smoke in the immediate vicinity of a suspected bomb
B. Don't accept identification markings on a package as legitimate. They may have been forged. Bombs are usually camouflaged
C. Bombs may be sent through the mail, delivered by express agencies, or delivered by individual messengers
D. A bomb may be an incendiary type. Have sand and fire extinguishers on hand
E. Leave the handling of bombs to precinct superior officers

70. Police Officer Edwards stopped an auto which had passed a red light. After speaking to its driver, he learned that he had no license and that the auto's registration, insurance and inspection had all expired. The number of summonses Edwards should issue in this instance is:

A. One
B. Three
C. Four
D. Two
E. Five

71. While on patrol, a civilian approaches you and says he knows a police officer who is dealing in drugs. He knows the officer's name, but has no other information about the activity. Which of the following is the best course of action for you to take?

A. Take the information, put it in your log, ask the civilian to get more information, and arrange to meet him again as soon as possible
B. Take the information, thank the civilian, and disregard the allegation since the information is sketchy and incomplete
C. Take the information, put it in your log, and begin a covert investigation, then report your results to the Internal Affairs Division
D. Take the information, put it in your log along with information about the civilian, and report same to your supervisor
E. Decline the information, and tell the civilian to telephone his complaint to the station house where the incident took place

72. While on Radio Motor Patrol duty, you stop a motorist for making an illegal "U" turn. Upon requesting his license and registration, the motorist hands you his folded license and registration with a Patrolman's Benevolent Association Card plus a $20 bill inside it. What following action do you take?

A. Return everything to the motorist and warn him against future violations
B. Take the money because he is probably a member of the service
C. Return everything and request that he give you only the items that you asked for; license and registration
D. Arrest the motorist for bribery
E. Return the money and keep the card

73. According to Internal Affairs Statistics; allegations of corruption are:

A. Increasing
B. Decreasing
C. Remaining constant
D. Always substantiated
E. Never unsubstantiated

74. The Knapp Commission studied the "Rotten Apple" concept and concluded that:

A. This concept of police corruption was valid
B. Police officers are only offered tainted fruit by peddlers
C. This concept of police corruption was not valid
D. It has merit but only in respect to the Dept. of Agriculture
E. It must be studied further before a final decision could be made

75. You are on foot patrol duty, assigned to a school crossing. A female approaches you with a wallet she says she found in the school yard. The wallet contains $200 and various identification cards and papers. Which of the following is the correct action for you to take?

A. Call for a car to relieve you on the crossing so that you can go to the school and turn over the wallet to the principal
B. Wait until your crossing duties are completed, then give the wallet to the school principal
C. Obtain the identification of the female who gave you the wallet, give her a receipt for the wallet and the money, and turn the wallet over to the principal of the school at the end of your school crossing assignment
D. Obtain the identification of the female, give her a receipt for the property, and upon completion of the school crossing assignment, notify the station house of the situation, and voucher the property at the earliest possible moment.
E. Obtain the identification of the female, give her a receipt for the property, and proceed immediately to the station house to voucher the property

76. A rookie police officer is assigned to Radio Motor Patrol duty with an experienced officer who has many years of service. The experienced officer has decided to park the car in a place where it will not be seen and then go to sleep. The rookie should; Select your first move.

A. Go along with the wishes of the other officer who is more experienced and knows how to get along in the precinct
B. Tell the other officer that he will not take part in the practice
C. Call the Internal Affairs Division
D. Notify your supervisor
E. Argue the point so your partner will know where you stand but go along with him anyway

77. In the exercise of our police powers, the goals of the Dept. are to attain the ideal police officer in professional conduct. This means that: Select the <u>incorrect</u> answer:

A. We must be sensitive to the public and their needs
B. When rendering aid, we are compassionate and concerned with the needs of this person and his family
C. When we make an arrest we observe the prisoner's rights
D. Before making hasty arrests, we wait until we have enough evidence to convict a person beyond a reasonable doubt
E. When we testify in court, we are impartial, objective and truthful

78. You stumble upon an illegal gambling operation, a crap game, in an abandoned building on your post. A police officer, who runs the game, offers to give you money to overlook the incident. What is the proper action for you to take?

A. Arrest the players, warn the officer and prepare a report for your Commanding Officer
B. Arrest the players and the officer
C. Arrest the officer and release the players
D. Return to the station house and report the incident to your supervisors
E. Return to the station house and prepare an intelligence report for the Internal Affairs Division

79. Relative to truants observed while on patrol, the police officer should: Choose the best answer:

A. Realize that truancy may be the outward manifestation of some other basic problem
B. Return the truant to the nearest public school where he should be turned over to the principal as per department guidelines
C. Realize that truants are often involved in crime
D. Prepare a Juvenile Report on the child for truancy
E. All of the above

80. While on patrol, you observe a 17-year old male under the influence of alcohol walking down 3rd Avenue and 42nd Street. Which of the following would be the <u>wrong</u> action for you to take. based only on the above statement?

A. Stop and question the youth as to who sold him the liquor
B. Ask him who gave him the liquor
C. Take no action since he is too old for a Juvenile Report
D. Prepare a Juvenile Report
E. Try and ascertain the location where he obtained the liquor

81. A police officer is questioning a girl as to the possibility that she is a runaway. He should be aware of all of the following, except:

A. If the child is 17 and from Brooklyn, and her parents tell you she ran away, it is your duty to return her home
B. An interview with the child may lead to the discovery of venereal disease or physical injury
C. Some runaways, although antagonistic, will be quite content to have been discovered by the police
D. If assistance is needed in determining the status of a child, call the "Runaway Unit" Youth Aid Division
E. Children run away from home either because of psychological problems, environmental factors or sometimes simply for adventure

82. Youth gangs have emerged again after many years of silence. In answer to the question "Why do many juveniles in urban cities want to identify with youth gangs?" We may include all but one of the following. Choose the incorrect choice:

A. Family instability and parental inadequacy
B. Deplorable housing conditions
C. Lack of employment opportunities
D. Peer group pressure
E. Sibling rivalries

83. You have arrested a juvenile. He and his parents ask you questions pertaining to the Family Court. Choose the correct statement:

A. The case may be disposed of in Family Court even before it reaches a judge
B. Constitutional guidelines are never applied in Family Court
C. To be found guilty, all that is necessary is "a preponderance of evidence"
D. The youth will not be assigned counsel, rather he will be questioned by the judge without the aid of counsel
E. If homicide is the charge and the youth is over fifteen years old, the criminal court has jurisdiction

84. You are called to a hospital to investigate a 10-year old victim of a sex attack. You should be aware of all of the following, except:

A. It is of the utmost importance to get all the facts immediately (for possible arrests) regardless of the circumstances
B. A hysterical parent should be separated from the child, if possible
C. Future interviews will no doubt be needed since it is likely that little, if any, useful information can be obtained from a child during the initial period
D. A Juvenile Report on the child must be prepared
E. A study shows that the effects of sexual relations to the child victim have at times been exaggerated

85. Joe, a 15-year old youth was arrested by Police Officer Green for assault, 2nd degree, a felony. At the adjudicatory hearing in Juvenile Court, Joe was found to have committed the act. At the Dispositional Hearing which followed, the judge studied the Probation Service's Report on Joe to determine what action should be taken. Which of the following is a false statement concerning the Probation Report?

A. The judge must follow its recommendations
B. It contains the youth's past juvenile behavior
C. It contains the juveniles'school records
D. It contains the juvenile's family behavior
E. It is confidential

86. "There is widespread conviction that the Juvenile Justice System is, on the whole, a dismal failure. It is not even stemming the tide of delinquency, nor is it bringing justice and compassion to the child offender. Even more important, it is obviously not succeeding in rehabilitating delinquent youth." An indication that rehabilitation is not occurring is:

A. The inadequacy of the Youth Division
B. The rise in sex-connected crimes in the nation
C. The elimination of correctional facilities
D. The high recidivism rates of children who graduate from the juvenile system to the criminal courts
E. All of the above

87. Police Officer Smith, while on foot patrol, notices a group of youths, under the age of 16, loitering in a candy store located near a school. As school is in session, P.O. Smith questions the youths as to why they are not in school. P.O. Smith prepares Juvenile Reports on the youths and returns them to the nearest school. P. O. Smith(s actions are primarily intended to: Select the correct answer:

A. Prevent annoyance to passersby
B. Identify children who are actually or potentially delinquent
C. Avoid complaints by the candystore owner
D. Identify children who are doing poorly in school
E. All of the above

88. Your sector has about three youth gangs located within it. In dealing with these youths, you should realize all of the following, <u>except</u>:

A. When directing a gang to "move on" the officer should be especially alert for possible attacks
B. There is a distinct difference between the youth gang and youth group
C. Claims of being "junk-free" by gang leaders are often erroneous due to a broad definition of the term "junk-free"
D. Some youths join youth gangs, although they really would rather not
E. Compared to five years ago, gangs are on the decrease

89. "Black Power rejects the lessons of slavery and segregation that caused Black people to look upon themselves with hatred and distain. To be 'integrated,' it was necessary to deny one's own heritage, one's own culture." According to the author and the above statement, select the best choice

A. Integration as a solution to the race problem has demanded that the Blacks forswear his identity as a Black
B. The Black man must develop a sense of pride and self-respect
C. The Black man must change his demeaning conception of himself
D. Black people need to have a sense of their history and of themselves as whole human beings
E. All the above answers are correct

90. Advocates of legalized prostitution often minimize the moral and ethical problems associated with it. They consider prostitution a victimless crime because the participants are usually willing. Select the <u>incorrect</u> statement regarding prostitution:

A. If a lone hooker cannot be persuaded into working for a pimp, the pimp may resort to having the girl beaten
B. Commercial prostitution is not connected with organized crime
C. Many women have been induced into becoming drug addicts to force them into prostitution
D. Many customers of prostitutes have ended up as victims of extortion
E. Occasionally the prostitute is the subject of an assault by a customer who beats her "just for kicks."

91. The 6th and 10th Precincts have instituted programs to establish a dialogue with the homosexual residents in their areas. According to the article, "Homosexuality, Society and the Law," the choice which best illustrates the reasons for instituting these programs is:

A. It is hoped that homosexuals will become familiar with the police role and strive to avoid violating the law
B. It is hoped that these programs will keep homosexuals out of "Gay" bars
C. It is hoped that homosexuals will be exposed to the viewpoint of "straight" society with the result that they will become more heterosexual in their outlook
D. It is hoped that these programs will anticipate and resolve sources of friction that might occur in the respective communities
E. None of the above

92. One of your contemporaries often states that, "If the Blacks want equality, let them get it by themselves. It should be a completely Black operation, from start to finish." This statement, and its indication that the social, political, and economic equalization of the Black community should be a totally Black undertaking, is:

A. Realistic, in that Whites can hardly be expected to assist in the equalization of the Black position in America
B. Unrealistic, in that there simply are not sufficient resources, either actual or potential, in the Black community for a total, unilateral, bootstrap operation of this sort
C. Unrealistic, in that the education level of American Blacks is insufficient for this type of independent movement
D. Realistic, in that Blacks have been the target of deliberate denial by the U. S. Government for 400 years
E. Unrealistic, in that the Black Middle Class does not support the Black Liberation Movement

93. According to the article "Revolt of the White Lower Middle Class" many White-working class individuals feel poorly toward the Blacks because: Select the <u>incorrect</u> answer:

A. Of television
B. Many Whites only have a passing acquaintance with a Black person and some Whites don't even have this
C. Blacks have become a symbol of all the working class White resentments
D. Many Blacks have become the Whites' bosses and they feel that the Black man is incapable of doing the job properly
E. They believe that the politicians have given in to all the militant's Black demands

94. According to the article, "The Women's Liberation Movement," choose the correct answer:

A. The Women's Liberation Front is strong because it is unified
B. The movement will eventually die down because it is only a fad
C. Since women have achieved full constitutional rights, they have no legitimate gripes
D. Most women seek employment outside the home to show they can compete with men
E. By liberating women, men will be liberated from certain rigid roles

95. A police officer often becomes involved in the lives and problems of the citizens he serves. When communicating, the officer must be aware that certain words, phrases, and good will gestures (testimonials) may overlook individuality or convey negative overtones. According to "Explosive Words and Phrases," which of the following <u>does not</u> fit in the latter category?

A. Nicknames
B. Generalizing
C. Stereotyping
D. Courtesy
E. "They" to "we" syndrome

96. According to the article "Rumor Process" select the false statement:

A. "Sharpening is a process in which certain details are paid attention to, remembered and reported more than others
B. Leveling tends to occur in the direction of the values and norms of the group
C. Sharpening occurs with respect to symbols and labels
D. Sharpening is the opposite of leveling
E. Leveling is not affected by group values

97. According to the article "Rumor Process" select the false statement:

A. Rumors exist and continue to circulate, because they serve some positive function for the individual or the group
B. Rumors serve to explain ambiguous situations and decrease tension felt by individuals involved
C. Rumor may be used to establish an individual or a group as a scapegoat for one's fears
D. When the subject matter of rumor is trivial to a group and the material is very precise, the rumor will tend to circulate faster
E. People react to the rumor as if it were real, because they have a need to believe that it is real

98. "Most defendants have in effect two trials." Choose the answer that correctly describes what the author of the article "The Psychology of Police Confessions" means:

A. The person in effect tries himself in his own mind and in turn is convinced by the police of his own guilt
B. If the police believe him guilty, he will then be thought guilty by the jury
C. The suspect will generally convince the police of this guilt and this same assumption is passed on to his lawyer
D. They are first tried by the police. If found guilty, they are held for trial by the courts
E. They are first tried by the police and if believed, released on bail

99. In the article, "Police Questioning of Law-abiding Citizens," the author is concerned about what is called "preventive police work." The author defines this term as meaning:

A. Stopping a person when no crime has been reported, no suspect described, or there is no visible sign of an offense to direct police attention to this person
B. A police investigation after a crime has been reported
C. Stopping a person where the circumstances suggest that he may be doing something illegal
D. Stopping a vehicle for a visible violation of the traffic regulations
E. Questioning a person who matches the description of a perpetrator of a recent robbery

100. Police Officer Kelly is walking his post in the 72nd Pct. Joe Colucci, an informer, tells him that he heard from a friend of his that there is going to be a sale of four bags of narcotics the next day. Which of the following statements would be incorrect in evaluating the accuracy of this information?

A. Is the informant usually reliable
B. Where the informant got his information from
C. The evidence supporting the statement
D. The occupation of the informant
E. The ways in which the evidence can be checked

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4TH EXAM - POLICE SCIENCE - COMPANIES 1 to 3

27-1

1. Police Officer Edwards issued a summons to a man who allowed his three English Sheepdogs to run free in Central Park. According to the Police Student's Guide, this offender should be charged with a violation of:

A. The New York City Administrative Code
B. The Department of Parks, Recreation and Cultural Affairs Regulations
C. The New York City Health Code
D. The New York City Animal Control Act
E. The New York State Conservation Law

2. A member of the service must be able to decide whether or not a case should be referred to the detectives. Which of the following cases will a member of the service refer to the detectives?

A. Property lost is valued at more than $1,000
B. A victim receives a physical injury
C. Complainant has been the victim of the same felony in the past two years
D. Burglary of the First National Bank of North America
E. An arrest for disorderly conduct

3. The preliminary investigation of robbery cases is an important function of the police officer. Which of the following statements regarding the preliminary investigation of commercial robberies is most correct?

A. They will be referred to the Detective Borough Robbery Squad
B. An immediate notification must be made to the Central Detective Borough Dispatcher
C. A form Misc. 832, Screening Sheet must be prepared
D. A Complaint Report must be prepared
E. All of the above

4. Re: "Juvenile Reports" a police officer should know that:

A. The primary aim of a Juvenile Report is to put juvenile crimes on record
B. The concept of helping juveniles is based on the premise that youngsters are more flexible than adults
C. Persons under 16, may only be charged with felonies, not with misdemeanors and violations
D. Juvenile Reports will be investigated by the Youth Aid Unit covering the precinct where the youth's violation occurred
E. A Juvenile Report is prepared only for juveniles under 16, who commit repeated acts against the public welfare

5. "In Progress" calls require rapid and usually silent response, so that the siren and dome light should be used only when necessary. The siren should always be used, however, when:

A. Responding to a report of a man with a gun
B. Responding to a Bank hold-up
C. Responding to a report of a 10-13
D. Reporting to the scene of a major explosion
E. Easing traffic congestion

6. Jimmy Jones, age 15, to impress his girlfriend, decides to steal an auto in order to take her to the Drive-In Movie. After the movie he'll return the auto somewhere in the vicinity in which it was stolen. Jimmy Jones is best classified as:

A. A transportation thief
B. A professional thief
C. An auto stripper
D. A joy rider
E. None of the above

7. Police Officers Hott and Delancey were dispatched by the switchboard operator to a report of loud music coming from a record store. If they find this complaint true, according to the Student's Guide, they should:

A. Issue a summons for a violation of the Administration Code
B. Refer the complainant to court
C. Warn and admonish the offender
D. Notify the Department of Consumer Affairs through the precinct switchboard
E. Summons the offender and forward a form L.D.-6 to the proper licensing agency

8. Officer Jones of the Manhattan South Task Force issued a summons to the owner of a parking lot for accepting more cars than his Authorized Capacity permitted. He should make this summons returnable to:

A. Parking Violations Bureau
B. Part 5 of the Manhattan Criminal Court
C. Administrative Adjudication Bureau
D. Part 6 of the Manhattan Criminal Court
E. Part 7 of the Manhattan Criminal Court

9. After apprehending a person who is in possession of a vehicle with an altered or defaced VIN, the police officer should immediately:

A. Determine whether or not a valid registration is in the driver's possession
B. Determine whether an alarm has been issued for the car
C. Issue the Miranda Warnings
D. Take the vehicle and driver to the station house
E. None of the above

10. Station House Clerk Sweeney received a telephone call from a civilian who alleged that a resident of his precinct was dealing in narcotics at his apartment. In this instance he should:

A. Prepare a Complaint Report and refer it to the precinct's Investigating Unit
B. Prepare a file copy of a Complaint Report and telephone the report to O.C.C.B.
C. Prepare a Complaint Report and refer it to the Borough Detectives
D. Ask the complainant to telephone the information to O.C.C.B.
E. Prepare a Complaint Report and a separate report to the precinct's Integrity Control Officer

11. A uniformed officer will prepare an Intelligence Report for which of the following?

A. Information indicating gambling in any premise, including that collected by the officer's own observation
B. Gambling apparatus or records found
C. A place or area frequented by "Known Gamblers"
D. Reputation of a place indicates that it is used for gambling
E. All of the above require that an Intelligence Report be prepared

12. A police officer arriving on the scene of a possible homicide is expected to take certain prescribed actions according to the Police Student's Guide. Which of the following statements about these actions is correct?

A. If a witness informs a responding officer that the perpetrator left the victim's apartment and fled in an auto which the witness describes, the officer will immediately call by land-line to Communications Division from the victim's apartment and relay said information to Communications Division
B. An officer at the scene of a homicide will notify the Station House Supervisor of particulars of the case at the earliest opportunity
C. Members assigned to crime scenes will straighten out whatever has been disturbed during the commission of the homicide, after the detectives have responded and viewed any clues
D. A police officer assigned to guard a crime scene will make a listing of persons who enter the scene by having them sign their names in the officer's Activity Log. In this way, a chronological listing can be kept of these persons and of the exact time they visited
E. The Station House Supervisor will direct either the member who discovered the body or another member to identify the body the next day at 0800 at the Medical Examiner's Morgue

13. The primary function of a field service officer in investigating past crimes, such as robbery is to:

A. Impress the victim with one's knowledge of police work
B. Discover latent fingerprints at the scene
C. Obtain proper information for the detectives to use in conducting a follow up investigation of the case
D. Conduct a thorough follow-up investigation in order to reduce the detective's caseloads
E. Advise the complainant of his responsibility to prevent similar crimes in the future and of the means by which this may be accomplished

14. Which of the following procedures would be correct regarding "prowler runs"?

A. Use the turret light and siren in order to reach the scene quickly
B. Check the house numbers on the opposite side of the street, with a flashlight or spotlight
C. Park your RMP in front of the location so that other responding units will know you are there
D. Remember to slam the doors of the RMP so that they will lock the first time
E. All of the above are correct procedures

15. A group of officers were discussing their "styles" of dealing with traffic violators. Which of the following statements best reflects Department policy?

A. "If you let them know who is boss right off, the bat, you don't get any ruff from them. You've got to come on strong"
B. "Let them holler if they want. They're usually upset and it gets it off their chests. Nobody likes to be shown he's wrong."
C. "A sharp cop has all the answers to guys who raise a fuss over a lousy traffic ticket. When you're on the street a while, you learn to put anybody down."
D. "I'm a human being, too! Nobody's going to give me a lot of lip and get away with it. I don't get paid enough to take abuse and I'm not going to."
E. "Some guys get the message when you give them a lecture and some other guys need a ticket. I never give anybody both, though, and I'll never lecture a man in front of his family

16. The police officer has a number of sources of information from which he can obtain assistance in the investigation of stolen vehicles. Which of the following is the most correct statement regarding these sources and the assistance they provide?

A. The Motor Vehicle Identification Desk can be called in order to verify ownership of a vehicle
B. An officer can call the Stolen Vehicle Desk to determine if a vehicle has been repossessed, impounded, previously reported stolen or wanted in connection with a felony
C. The Information Section will give the officer a check on the validity of a driver's license and also inform the officer of any license suspensions or revocations
D. An officer can request a signal 10-15 through the Communications Division in order to determine if a vehicle has been reported stolen
E. All of the above

17. According to the Police Student's Guide, premises where bets are accepted over the telephone by persons known as sheetwriters or clerks, usually located in apartments or offices, and generally are in operation from 1100-1400 hours and 1730-2000 hours, are called:

A. Sportsrooms
B. Wirerooms
C. Figurerooms
D. OTB offices
E. Numbers banks

18. Which of the following statements regarding a "Past Burglary" investigation has been correctly stated?

A. A police officer responding to a past burglary will obtain all necessary information on stolen property to complete the Property Voucher
B. When taking the details of the past burglary from the complainant, remember to practice proper public relations and promise to bring the guilty party to justice
C. A burglar who injures someone in the commission of the burglary automatically justifies referring this case to the detectives
D. In order to give the complainant of a burglary the sense of having been completely served, recommend a reliable local locksmith to repair a door or window damaged in the forced entry
E. Since burglaries are not commonly committed felonies, but instead time-consuming in their investigation, they have been turned over to the patrol force for "close-out", thereby saving time for the Detective Division

19. At the scene of a violent crime which a doctor feels will prove fatal to the victim:

A. The officers involved should refrain from comments about the victim's condition within his earshot in order to avoid further alarming him
B. The doctor should be asked to inform the victim that he is dying
C. The opinion of another doctor should be sought before any action is taken
D. The officers involved should leave the victim in the care of the doctor and make an immediate search of the vicinity for the perpetrator
E. The officers involved must notify the Chief of Operations forthwith

20. An effective officer has a knowledge of the crime of Burglary. Which of the following is a correct statement regarding Burglary

A. Burglary is by far the least committed felony in N.Y.C., but nevertheless, is still a serious crime
B. Juveniles are responsible for most burglaries involving high profit thefts
C. Narcotic addicts frequently resort to Burglaries to support their habits
D. Burglaries are usually witnessed by many people and thus the perpetrators are easy to detect and apprehend
E. Burglary is a crime involving great skill & thus is always committed by professionals

21. Which of the following statements re: marking of evidence is correct?

A. A discharged cartridge case should be initialed at its base
B. Spent bullets are initialed on their tops
C. Counterfeit money need only be initialed by the person who discovered it
D. Alcoholic beverages must be adequately stopped or capped to prevent leakage, sealed with tape and marked
E. Marijuana in rolled cigarette form will be marked at both ends

22. The most important factor an officer should consider when fingerprinting a prisoner is:

A. Obtaining distinct ridge patterns
B. His personal safety
C. Cleanliness of the prisoner's hands
D. The offense for which the prisoner was arrested
E. Accuracy and completeness in the required information

23. Which one of the following would be recorded on a Complaint Report (U.F. 61)?

A. "Pick up" cases of children charged with juvenile delinquency
B. Complaints of military deserters within New York City
C. Arrests by and for other authorities
D. Complaints alleging corruption by members of this department, e.g., Bribery
E. Civil arrests, (orders of protection, paternity warrants)

24. Robbery is a serious crime which has a profound effect upon the victim. Which of the following concerning the interviewing of a robbery victim is most correct?

A. The officer should use a crusty, hard-bitten attitude as this will increase his credibility as an experienced investigator
B. Minimize the seriousness of the incident by explaining that robberies are commonplace and there is little the police can do to prevent them
C. Display an attitude of aloofness and disinterest, both qualities of a good investigator
D. The officer should appreciate the fact that this crime is very important to the victim
E. None of the above

25. Mr. Fred Obnoxious, a chronic traffic violator, is stopped by the police for failure to stop at a stop sign. When approached by the officer and asked for his license and registration, Mr. Obnoxious states that he left his wallet with all his identification at home. The officer's best action at this point would be to:

A. Call for the patrol supervisor and be guided by his instructions
B. Give a summons based on the verbal information given by Mr. Obnoxious
C. Ask the violator to accompany him to the Station House for the purpose of verifying his identity
D. Escort the violator to his home so he may obtain his license and registration
E. Arrest Mr. Obnoxious for being an unlicensed driver

26. Which of the following statements regarding "prowler runs" is most accurate?

A. Quick response to such a call often requires the use of the siren
B. The first MMP team at the scene of an office building "prowler run" should remain outside the building until other units arrive
C. Police officers should be aware that they have no right to stop and question anyone, just because he happens to be in the vicinity of a "prowler run"
D. After a search has been conducted of a premise where the presence of a prowler was reported, the members of the service should disperse and search possible getaway routes in the neighborhood
E. A Complaint Report is required for all prowler runs

27. A return date is required on summonses except for those returnable to the Parking Violations Bureau. Which of the following related to the entry of return dates is most accurate?

A. You may select the return date at a time most convenient to you
B. The return date is selected on a mutual agreement between yourself and the violator
C. The return date is based upon your "working chart number" and is found on the Return Date Schedule Card
D. The return date is listed on the roll call and is the same for all members working that tour
E. The return date is generally 10 days from time of issuance except that on weekdays it is 15 days

28. Officer Henry has arrested an individual for possessing four marijuana cigarettes. Which of the following is most correct regarding the evidence in this case?

A. It should be deposited in the Precinct Narcotic Property Locker
B. Henry must call O.C.C.P. to have the evidence examined by one of their specialists
C. The evidence must be analyzed by the laboratory only if the arrestee pleads "not guilty"
D. The Forensic Technicians' Section will respond to the precinct of arrest to analyze the evidence
E. It needs no analysis, since only hard addictive drugs are subject to this requirement

29. While assigned to Radio Motor Patrol, you receive a message from the Communications Division to report to the scene of a past robbery (10-20). Which of the following actions would be most correct?

A. Respond promptly
B. Use caution as the robbery may still be in progress
C. Be alert to the possibility of an ambush
D. Never stop the radio car directly in front of the actual robbery scene
E. All of the above

30. According to the Student's Guide, which of the following is most accurate about Department investigations into organized crimes?

A. Most useful information in these cases comes from wiretaps
B. The most important person involved in these is usually an informer
C. Investigations of routine street crime usually turns up evidence of organized crime
D. They are usually conducted in response to specific offenses or allegations
E. Uniformed police officers sometimes play an important role in these investigations

31. The major reason that members of the service are not to look at or accept the "Record of Violations" as a driver's license, is that:

A. The court may later dismiss the case on the ground that a summons was issued because of the driver's past record rather than the offense charged
B. The driver may not be licensed but may be driving with this half of the license of a friend or relative
C. The driver may have retained this section after his license was revoked in a prior court proceeding
D. This half of the license does not contain all the information required by captions of the Universal Summons
E. None of the above is valid reason why an officer should not examine a "Record of Violations"

32. In which of the following instances is a Juvenile Report (form YD-1) required?

A. A drunk seventeen-year old
B. A 20-year-old youth from Boston stranded without funds or shelter
C. A 9-year-old sodomy victim
D. A 10-year-old left home alone for three days by his parents
E. All of the above

33. Police Officer Edwards stopped an auto which had passed a red light. After speaking to its driver, he learned that he had no license and that the auto's registration, insurance and inspection had all expired. The number of summonses Edwards should issue in this instance is:

A. One
B. Three
C. Four
D. Two
E. Five

POLICE DEPARTMENT
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SOCIAL SCIENCE - 4TH EXAM - COMPANIES 1 TO 3

27-A

I. Answer the following questions on information supplied in questions as well as material in the student's guide on personality.

1. Police Officer Green responded to the scene of an accident which had taken place a few minutes earlier. In conducting interviews of the parties concerned to determine the cause of the accident, P.O. Green tried to put aside his own feelings, emotions and ideas, but as most human beings, he makes judgments based on: Choose the incorrect answer.

A. An objective point of view
B. A view which is influenced by Social Context
C. His Social and Personal bias
D. Seeing things subjectively
E. His perception of the events

2. P.O. Green may attempt to judge the personalities of the operators as he seeks to determine the cause of the above accident. Officer Green should be aware that personality: Choose incorrect answer:

A. Can be easily perceived by our senses and therefore can be scientifically examined
B. Is unique because each individual is different from every other individual
C. Is not easily predictable
D. Is incapable of generalization
E. Is not completely developed in human beings at birth

3. Heredity and environment are two factors that influence a person's personality. Relative to these two factors, P.O. Green should know that: Choose the incorrect answer:

A. Heredity is everything a person receives through his parent's genes
B. Environment is outside influence on human beings
C. Environment consists of physical, cultural, group and personal influences
D. All individuals are affected similarly by his environment
E. An individual's personality is the result of the interaction of environment with heredity

4. Officer Smith sees his partner take a watch from a S.O.. Smith questions his partner about the watch but the partner denies any knowledge of the incident. Smith wanted to arrest his partner but decided to wait till they arrived at the station house. On the way, Smith realizes that arresting cops is a negative goal among many police officers. As he nears the Precinct he begins to find it very difficult to go through with the arrest. Which of the following principles of Avoidance-Approach Conflict best describe Officer Smith's reaction to the situation?

A. The tendency to approach a desired goal decreases as the individual nears the goal
B. The tendency to avoid a negative goal becomes stronger as the person nears the goal
C. The approach tendency increases more rapidly than the avoidance tendency
D. An increase in drive associated with approach or avoidance will lower that possibility of completion
E. A negative goal is never stronger than a positive goal

10. Officer Jones has arrested a juvenile for stealing a car. The juvenile is introspective and moody, much different from the other youths he associates with. Jones thought that if all the kids were alike, law enforcement would be easier because an officer could predict behavior and better enforce the law. There is one basic problem according to the article that Jones overlooks and that is:

A. The problem of personality is how to account for man's uniqueness
B. Except in cases of glaring inadequacies heredity dramatically affects personality
C. Basically, each individual is affected in the same way by his environment
D. Culture has little effect on the personalities of members
E. Even though an individual does not have contact with a group, normal personality will develop

11. Officer Jones is a recent graduate of the Police Academy and since he has been assigned to the precinct his children have been sick for a short time. Because of this, he has lost all interest in his work. He is chronically sad and he has lost all confidence in himself. He has suffered fatigue and a considerable loss of weight. In this case one could say Jones was suffering from:

A. Depressive reaction
B. Dissociative reaction
C. Conversion reaction
D. Obsessive compulsive reaction
E. Phobic reaction

12. Officer Jones newly assigned to the Emergency Service Division, was assigned to rescue four people from a stuck elevator. He climbed down the shaft, went into the stuck car and rescued the people, but in doing so he realized that then he had a fear of closed places. This fear is commonly called:

A. Neurotic reaction of claustrophobia
B. Psychotic reaction of claustrophobia
C. Psychotic reaction of anxiety
D. Phobia reaction of anxiety
E. Neurotic reaction of agoraphobia

13. Officer Jones was being interviewed for the position of Field Training Specialist. The Captain who interviewed him stated he would not be considered because of his serious drinking problem. Jones' partner, Smith, received the designation instead. Jones shrugged this off and stated "I am glad Smith got the gold shield instead of me. I would have turned it down if they offered it to me." This is known as the defense mechanism of:

A. Denial of reality
B. Fantasy
C. Rationalization
D. Repression
E. Undoing

14. According to Freud, personality development is seen as the organization and expression of basic sexual energy, called libido. This development takes place in stages. Select the <u>incorrect</u> stage.

A. Oral stage
B. Phallic and Genital stage
C. Anal stage
D. Abnormal sex stage
E. Latency stage

15. P.O. Smith is aware of his behavior while on patrol. He has a cynical attitude toward lower class people and takes every opportunity to belittle them. He fully realizes his perception of himself as an individual and knows that his behavior and attitudes are wrong but he cannot help himself because he feels this is his identity. The above describes a factor that is instrumental in forming personality. Select the correct factor concerned:

A. Free will
B. Integration
C. Self-Concept
D. Personal experience
E. Cultural environment

16. P. O. Jones is accused of taking a bribe. After a Department trial, the charge is proved false. All through this traumatic experience P. O. Jones suffered much anxiety and at times he was forced to make use of one or more unconscious defense mechanisms. According to your readings, anxiety comes about in all of the following, except: Select the <u>incorrect</u> answer

A. Because of threats or danger from the environment
B. When the superego fails to act as the arbitrator
C. The id threatens behavior for which the individual could be punished
D. The individual does or thinks about something that causes guilt feelings
E. By finding no outlet for psychic energy

17. Officer Tardy, while on patrol in a RMP car, hates to deal directly with the public. He tries to cover up this weakness or failure to do his duty by asking his partner to handle all the jobs dealing with the public. He has a talent to do paperwork and stays in the car to do it when his partner deals with the public. Select the correct defense mechanism that describes the above.

A. Rationalization
B. Compensation
C. Reaction Formation
D. Projection
E. Undoing

18. When taking a mentally ill person into custody, which of the following actions would be least advisable for the police officer concerned to take?

A. Avoid abusive or threatening statements to the individual
B. Attempt to keep excitement ,on the part of crowds, other police officers, and others present to a minimum
C. Realize that a mentally ill person is legally not responsible for his actions thereby rendering the use of deadly physical force by the police officer, illegal and immoral
D. Deception should not, except in extreme cases, be used when dealing with mentally ill persons
E. Whenever possible, the time necessary for a proper situational appraisal and evaluation and/or the arrival of assistance should be taken when dealing with mentally ill persons

19. Personality disorders or character disorders are: Select the <u>incorrect</u> statements from among those offered below.

A. Primarily the result of inadequate personality development rather than the inability to control stress and anxiety
B. Are unclassifiable as neurotic or psychotic because normally they do not involve mental or emotional symptoms associated with these illnesses
C. Are extremely important to the police officer because he deals with the problems of individuals with whom they, the police, come into contact with the most in their role as law enforcers
D. A general term descriptive of the disorders prevalent among such individuals as the juvenile delinquent, hardened criminal, sexual, deviants, alcoholics and drug addicts
E. Relatively unimportant to the police officer due to the rarity of such types in a metropolitan society

20. Mental illness is seen to be the result of two causes, physical and psychological. Indicate which of the following is <u>not</u> one of the physical causes.

A. Brain damage
B. Some infectious diseases
C. Birth defects which preclude normal mental and emotional growth
D. Irrational fears and anxieties
E. None of the above

21. Generally, the difference between neuroses and psychoses is:

A. Neuroses generally grow into psychoses
B. Neuroses are overt behavior disorders whereas psychoses are abnormal ideas harbored by the mentally ill individual
C. Non-existent since both psychoses and neuroses are classified by the same "functional" psychiatric method
D. Extremely difficult to determine due to inherent similarities in identification procedures
E. Basically one of degree rather than type

22. "Normal" behavior, when viewed from the perspective of and in relation to one's environment, is best seen to be:

A. A person who conforms to all of society's expectations
B. A person who conforms to the customs of his society
C. A person who conforms to the mores of his society
D. A person who conforms to the laws that govern his society
E. All of the above

23. Environment can be divided into four categories of unequal influence: physical, environment, cultural environment, group environment and unique experience (personal experience). Select the <u>incorrect</u> statement relative to these categories:

A. Heredity is not influenced by environment
B. One's physical environment places definite limitations on the physical, cultural and social experiences one can have
C. Common experiences shared by the members of a particular culture shape the personalities of its members to some extent
D. Every individual belongs to a number of groups, and it is these groups that have profound influence on his personality development
E. No matter how close two people are to one another, they never have exactly the same experience

24. Alcoholism and Drug Addiction are examples of:

A. Psychotic Reactions
B. Neuroses
C. Personality Disorders
D. Non-psychiatric disorder
E. None of the above

25. Abraham Maslow contributed the term "Self-Actualization" To The World. This term has been used over and over again in many circumstances. The meaning of Self-Actualization is contained in which of the following examples:

A. A police officer on patrol hands out more than his usual amount of summons because he had a fight with his wife
B. A police officer attends college on his off-duty time in the hope of fulfilling his human potentialities
C. A police officer considers himself completely satisfied because of position
D. Man is basic lly evil but through self-actualization he becomes basically good
E. Self-Actualization is satisfied through sex

26. If the stimulus - Response (S-R) theorists say each person acts a certain way because he has learned certain habits and these habits are the result of stimulus - response conditioning, then the critics of S-R would most probably say:

A. Man is looked upon as little more than a puppet or machine whose strings or buttons are manipulated by external stimuli and who cannot overcome his past conditioning
B. Stimulus Response is not as scientific as the theoretical explanations of personality of Freud, Rogers, Jung and Maslow
C. Stimulus Response is useless because it deals with superficial personality characteristics
D. Stimulus-Response utilizes man's free will in their tests and this is too subjective
E. Stimulus-Response is not as testable as other personality theories

27. Carl Rogers states that there are two important elements at work in the process toward self-actualization. These two elements are:

A. Orgasm and sex
B. Ego and Id
C. Organism and superego
D. Self and others
E. Organism and self

28. A general definition of the organismic theory is best described in which of the following statements?

A. Man can be split into two separate yet interacting entities; Body and Mind
B. Man is composed of many organs
C. Man is an intergrated organ: what affects one part affects the whole
D. Only one of man's organs determines his personality
E. The Organismic Theory is a subjective theory concerning the arrangement of the bodily organs

29. According to the article on Personality the greatest medical problem in the United States today is:

A. Cancer
B. Psychological Illness
C. Heart Disease
D. Personality Incompatibility
E. Common Cold

30. Regarding the article on personality the least valid reason for using the term "Psycho" in the presence of the person afflicted or his family is:

A. It is a vulgar and offensive term
B. All abnormal behavior is not necessarily a sign of mental illness
C. All deviant behavior is not necessarily a sign of mental illness
D. The officer, through his experience, is qualified to make a medical decision
E. Shows a lack of courtesy to the afflicted and his family

31. Officer Ryan, because of his bad habits, eventually runs into problems with his sergeant. Ryan is extremely angry because the sergeant has given him a command discipline for not properly responding to a radio assignment. Ryan discharges his anger by talking impolitely to people or giving out numerous summonses. The best defense mechanism that explains this behavior is:

A. Displacement
B. Identification
C. Reaction Formation
D. Regression
E. Fantasy

32. Sigmund Freud combined data acquired from numerous interviews with his patients and personal introspection to form a theory of personality development and therapeutic methodology called Psychoanalysis. Select the answer which serves as the basis for his theory.

A. The personality of the individual suffers a series of radical changes during life. The transition from adolescence to adult being the most traumatic
B. The things that happen to an individual during infancy and early childhood play a major role in determining his adult personality
C. Heredity and environment are without question very important factors in personality development, but the most important factor is peer group pressure
D. The most influential period on personality development takes place after the age of seven, the age of reason. This is the beginning of personality formulation, the individual decides the type of personality and the direction he will follow
E. The traumatic events suffered during the adolescent period are the single most determining factors in personality development

33. According to Freud, each individual deals with his fundamental drives in different ways, and this produces the differing personalities we perceive in different individuals. In an attempt to explain this process, Freud asserted that personality is divided into three parts. Listed below are statements concerning the three parts, only one is correct. Select the correct answer.

A. The id contains man's basic drives. It is the storehouse for the values, goals and norms the child learns from his parents and society
B. The superego operates according to the pleasure principle, attempting to satisfy body needs whenever they arise, no matter what the consequences
C. The ego is the ideal self. It is influenced by the individual's own critical examination of his values based on his perception of the way others expect him to act
D. The id and the superego are in constant conflict. In order to resolve this conflict the ego has to act as the arbitrator or mediator between the id and the superego
E. The superego and the ego are in constant conflict. The id acts as the reality agent, constantly mediating this conflict

POLICE DEPARTMENT

City of New York
Recruit Training School

LAW - 4TH EXAM - COMPANIES 1 TO 3

27-

1. Tom mischievously throws a rock through a window of a private house without caring if anyone is present. According to the Penal Law, which of the following is incorrect?

A. Tom is not guilty of attempted reckless endangerment
B. If someone inside is physically injured, Tom is guilty of assault, a misdemeanor
C. If no one is injured inside but a substantial risk of seriously physical injury is created, Tom is guilty of Reckless Endangerment, a misdemeanor
D. If someone is inside, but fortunately does not suffer a physical injury, Tom is guilty of attempted assault
E. Reckless Endangerment may be a Felony or Misdemeanor

2. A New York City Police Officer who just happens to be an avid baseball fan decides on his day off to attend a game at Shea Stadium. In the bottom of the ninth inning one of the nearby fans has become quite annoyed because the Mets have been losing rather badly, takes a pistol from his pocket and proceeds to fire shots at random around Shea Stadium. Fortunately, no one is injured. In this situation the officer should arrest the fan and charge him with:

A. Assault, a felony
B. Menacing
C. Reckless Endangerment, a Misd.
D. Assault, a Misd.
E. Reckless Endangerment, a felony

3. Tom, intending to cause serious physical injury to Jim, fires a bullet at him from a distance of about 100 ft. The bullet misses Jim and kills Mary. Based on the above facts, it would be most correct to state that Tom is guilty of:

A. Murder
B. Menacing and Murder
C. Reckless Endangerment
D. Manslaughter
E. Attempted Reckless Endangerment

4. Tom came home late from work one night and discovered that another man was in his house making romantic advances toward his wife. He became so outraged that he took a knife from the kitchen and killed the other man. Tom should be charged with:

A. Manslaughter in the 1st Degree
B. Homicide
C. Assault
D. Murder
E. No charge

5. Mary Jones is suffering from terminal cancer, she cannot take the pain, so she asks her husband, Ralph, to put poison into her orange juice, so she will be put out of her misery. Ralph who loves Mary dearly agrees to help her commit suicide. He does what she requests and Mary dies from the poisoning. Ralph should properly be charged with:

A. Manslaughter
B. Assault, a felony
C. Attempted Murder
D. Criminal Neligent Homicide
E. Murder

6. According to the Penal Law, which of the following felonies could not be the basis of a "Felony Murder" indictment?

A. Escape, a felony
B. Kidnapping
C. Burglary
D. Assault - felony
E. None of the above

7. Joe, while resting in his apartment at night, hears someone trying to break into his apartment, through a rear window. Joe gets up, gets his loaded shotgun which he has a permit to possess, and patiently waits for the burglar to break in. As soon as the burglar breaks in, Joe shoots and kills him. Answer the following two questions based on the above paragraph. Select the correct statement.

A. Joe should be arrested for Murder
B. Joe should be arrested for Manslaughter
C. Joe should be arrested for Criminally Neligent Homicide
D. Joe should be arrested for Reckless Endangerment
E. Joe should not be arrested

8. Officer Jones while on foot patrol in the 41st Pct., observes a man with a pistol sticking out of his rear pocket. It would be proper for officer Jones in this case to arrest the man and charge him with which one of the following. Assume that the defendant has no prior convictions for the purpose of answering question #1 and he is not otherwise privileged to possess the pistol:

A. A felony whether or not the gun is loaded
B. A misd. in all cases
C. A felony only if the gun is loaded
D. A felony if the pistol is loaded or if the defendant has ammunition on his person to fit the pistol
E. None of the above

9. The term "Deadly Weapon" as described in section 10.00 P.L. and Chapter 29 page 1 of your Law Guide does <u>NOT</u> include:

A. A switchblade knife
B. A dagger
C. A blackjack
D. A bludgeon
E. Metal Knuckles

10. Mere possession of which of the following weapons constitutes a <u>felony</u>: Select the most accurate answer.

A. Machine Gun
B. Bomb
C. Silencer
D. Loaded firearm
E. All of the above

11. Section 265.15 of the Penal Law creates certain presumptions pertaining to the possession of dangerous weapons. In accordance with Section 265.15, it would be most correct to state that a machine gun found in a vehicle with four occupants is presumptive evidence that.....

A. The machine gun is unlawfully possessed by all persons in the vehicle
B. The machine gun belongs only to the registered owner of the vehicle
C. The machine gun is unlawfully possessed only by the operator of the vehicle
D. The machine gun can only be unlawfully possessed by one person at any given time
E. All of the above are false statements

12. Joe College enters the State University Science Building. He is carrying a high powered rifle in a case which was designed for the rifle. Joe could be arrested and charged with:

A. No crime because the rifle is in a case
B. A felony because he is in possession of a rifle
C. Criminal Negligence
D. A misdemeanor because he does not have written permission from the University
E. "C" and "D" are both correct answers

13. Mr. Williams, the owner of a liquor store, has on the premises a .32 cal. loaded pistol. When an armed stick-up man robs his store, Mr. Williams draws and fires his pistol, killing the perpetrator. Mr. Williams does not have a license to carry or possess a pistol. What should Mr. Williams be charged with? Select the most correct choice.

A. Murder and possession of a loaded firearm, a felony
B. Attempted assault because there was no unlawful intent to kill the perpetrator
C. Possession of a loaded firearm, a misdemeanor
D. No crime because of the mitigating circumstances
E. A felony because it is mere possession of a loaded firearm

14. George, while being arrested by a police officer for disorderly conduct (a violation), not committed in the presence of the officer, did push the officer in an attempt to prevent the arrest. The officer charged George with disorderly conduct, harassment, and resisting arrest. In this case it would be most correct to state that.....

A. The charge of resisting arrest was justified because three charges are better than two charges
B. The charge of resisting arrest is not valid because the arrest for disorderly conduct was not valid
C. The validity of a resisting arrest charge does not depend upon the validity of the original charge. (In this case disorderly conduct)
D. The charge of harassment is invalid
E. All of the three charges are valid

15. Two couples, Bob, Carole, Ted and Alice, after a night of dinner and dancing, go back to Bob and Carole's apartment. Bob suggests that Ted and Alice try a marijuana cigarette to get high. Bob takes a drag, gives it to Carole. Carole gives it to Ted, Ted gives it to Alice, and then gives it back to Bob. The most appropriate charge for all involved is:

A. Possession - misdemeanor
B. Possession - felony
C. Sale - Misdemeanor
D. Sale - felony
E. Possession - felony

16. Bill acquires a hypodermic syringe and needle unlawfully which he does not use but gives to Mary. Select the most correct choice below:

A. Bill did not sell the hypodermic instrument
B. Bill is guilty of a felony
C. Bill is guilty of a misdemeanor
D. Bill is not guilty of any crime
E. None of the above is true

17. John is giving a party and in order to make it more enjoyable, he purchases 25 marijuana cigarettes. He has them on his person when Officer Hunter apprehends him. Officer Hunter should know which of the following to be correct?

A. John is guilty of a felony
B. John is guilty of a misdemeanor
C. John is not guilty of anything
D. If John had given one cigarette to a friend, John would not be guilty of selling
E. All of the above are false statements

18. Select the true statement below regarding Stimulants and Depressants.

A. Stimulant - is a substance capable of slowing down the central nervous system
B. Depressant - is a substance capable of exciting the central nervous system
C. Methamphetamine - is a substance chemically related to amphetamine, but possessing more central nervous system activity
D. Marijuana - can only be a stimulant
E. All of the above are true

19. At 3 A.M., on a Saturday, Jim is observed walking down a deserted street; he appears to a police officer on post, to be intoxicated. The appropriate charge should be:

A. Disorderly Conduct, violation
B. Disorderly Conduct, misdemeanor
C. Loitering, violation
D. Public Intoxication, violation, if it appears that he may endanger himself
E. Disorderly Conduct, misdemeanor, if it appears that he may endanger himself

20. Regarding "disorderly Conduct" , a violation, it would be <u>wrong</u> to state:

A. It may be committed in other than a public place
B. The act is done with intent to annoy or alarm another person
C. One of the subdivisions in "disorderly conduct" is identical with a subdivision in "harassment"
D. It includes both intentional and reckless behavior

21. Richard Conti, a known narcotic user, is standing by himself on a street corner where there is a lot of narcotic activity. The appropriate charge should be:

A. Loitering, violation
B. Loitering, 1st degree, misdemeanor
C. Disorderly Conduct, violation
D. Disorderly Conduct, misdemeanor
E. None of the above

22. Mary, a female aged 23, loitered about the street adjacent to the Ajax Hotel for the purpose of soliciting men to engage in acts of sexual intercourse with her for a fee. In this circumstance, it would be correct to state that Mary:

A. Is not chargeable with "loitering"
B. Is chargeable with "loitering"
C. Is chargeable with "vagrancy"
D. Is chargeable with "prostitution"
E. Is chargeable with "dis-con"

23. John, dressed as a female, is congregating with several other transvestites in a public park. John is guilty of: Select the correct choice:

A. Disorderly Conduct
B. Harassment
C. Loitering, a violation
D. Loitering, a misdemeanor
E. None of the above is correct

24. There are certain locations where a person may be charged with Loitering, a violation. Select the <u>incorrect</u> choice:

A. Public place
B. Home
C. School
D. Transportation facility
E. College

25. Fred with seven others engaged in violent conduct and recklessly caused a grave risk of causing public alarm. During this course of conduct, substantial property damage occurred. Fred should be charged with:

A. Riot, a felony
B. Riot, a misdemeanor
C. Inciting to Riot
D. Unlawful Assembly
E. Disorderly Conduct

26. Regarding Riot, select the correct statement:

A. Riot, a Misd. requires eleven persons
B. Riot, a felony requires at least five persons
C. Riot, a Misd. requires a physical injury
D. The conduct in riot is of such a nature as to be likely to cause a grave risk of public alarm
E. None of the above is correct

27. Select the incorrect statement about the offense of Unlawful Assembly:

A. A person is guilty of Unlawful Assembly when he assembles with four or more other persons
B. The purpose in unlawful assembly is to engage or preparing to engage in tumultuous and violent conduct
C. The conduct in unlawful assembly is intentionally or recklessly causing a risk of public alarm
D. Unlawful Assembly is a misdemeanor

28. Officer Murphy properly issues summonses to peddlers on his post. The peddler's boss, Tom, tells Officer Murphy not to issue any more summons, otherwise he says that he will file a complaint of corruption against Officer Murphy, charging him with accepting a bribe on a prior occasion. It would be correct to state that Tom could be charged with Obstruction of Governmental Administration:

A. Only if the bribery charge is unfounded
B. Whether the bribery charge was true or not
C. Only if he succeeded in preventing the issuance of the summons by threatening an unfounded charge
D. Only if he succeeded in stopping Officer Murphy from issuing the summons by physical force
E. None of the above

29. Obstructing Governmental Administration is a_____ Select the correct choice for the fill-in:

A. Felony
B. Violation
C. Petty Offense
D. Misdemeanor

30. One of the main law enforcement problems in recent years has been drug abuse and drug addiction. Select the definition below which is wrong.

A. Narcotic Drug - limited to only true narcotics which are only natural
B. Narcotic Preparation - contains minor quantities of an opiate, such as codeine cough medicine
C. Hallucinogen - drugs capable of provoking changes of sensation, thinking, self awareness and emotion
D. Hallucinoginic Substance - less serious hallucinogins such as psilocybin and psilocyn
E. All of the above are true except "A"

31. Riot, Inciting to Riot, and Unlawful Assembly can all be considered to be offenses against public order. With regard to these, select the incorrect statement.

A. Inciting to riot is a felony
B. Riot can be either a felony or a misdemeanor
C. Unlawful Assembly is a misdemeanor
D. Inciting to Riot and Riot, a felony, requires 11 or more people

32. If Sid urged eight persons to engage in violent conduct of a nature likely to cause public alarm, and four of them thought it was a good idea and began to prepare, the proper action against Sid would be to:

A. Arrest him for Unlawful Assembly
B. Arrest Sid for Inciting to Riot
C. Arrest Sid for Riot, a felony
D. Arrest Sid for Riot, a misdemeanor
E. None of the above

33. Phil is charged with burglary, a Felony, One night while awaiting trial at the Tombs, he manages to escape. If apprehended Phil should be charged with:

A. Escape, misdemeanor
B. Escape, Felony, 1st degree
C. Escape, a lesser degree felony
D. The original charge of burglary

34. Bill has been charged with a felony and is confined in a Precinct Detention Cell. During the night he tricks an officer into thinking he is ill and when the cell door is opened, runs out into the street. If apprehended, the most appropriate charge against Bill should be:

A. Escape, Felony, 1st Degree
B. Escape, a misdemeanor
C. Escape, a lesser degree felony
D. None of the above

Before the United States Department of Justice
Law Enforcement Assistance Administration

The Guardians Association of the Police Department, City of New York, James Hargrove President, Rita Jackson, Joe L. Wright,

Complainants

v.

City of New York, Michael J. Codd, Police Commissioner of the New York City Police Department, Alphonse D'Ambrosio, James Smith and Josephine Gambino members of the Civil Service Commission, City of New York.

Respondents

Summary of Complaint

I

This complaint is submitted on behalf of the Guardians Association, an organization of Black Police officers in the New York City Police Department, James Hargrove, President of the Guardians Association and applicant for the job of Lieutenant in the New York City Police Department, Rita Jackson an applicant for the job of Police Officer New York City Police Department and Joe L. Wright an applicant for the job of Sergeant in the New York City Police Department. The complaint seeks to cause an LEAA investigation into certain discriminatory practices of the New York Police Department and the Civil Service Commission of the New York City and a subsequent termination of funds by LEAA to New York City's Police Department until such racially discriminatory policies are abandoned. Complainants complain both individually and on behalf of others similarly situated, who as a class have been denied employment or promotional advancement by respondents because of race, color or national origin.

Complaints allege that by the use of unvalidated or discriminatorily tests, respondents have excluded Blacks and other minority applicants from employment in the New York City Police Department. Complainants further allege that respondents have discriminated against Blacks and other minority members of the New York City Police Department by the

use of unvalidated promotion examinations and discriminatory work assignment procedures. Further that the proposed termination of present Black and minority members of the New York City Police Department on the basis of rank order senority , although neutral on it's face will have a significant discriminatory impact on Blacks and minorities.

Among the results of the discriminatory practices alleged are that (1) the percentage of Blacks and other minorities in the City of New York's Police Department is disproportionally small in relation to the percentage of Blacks and other minorities in the population of New York City and the percentage of Blacks and other minorities who apply for employment and promotion in the New York City Police Department, and (2) that the percentage of Blacks and other minorities employed in supervisory postions in the New York City Police Department is dis - proportionately small in relation to the percentage of Blacks and other minorities employed in all positions by the department (3) that those employed in supervisory positions are not assigned to "policy " making positions (4) that the proposed terinations based on senority will vastly reduce that percentage currently employed by the New York City Police Department.

Jurisdiction

II

This complaint is filed pursuant to sections 518 (c) (1) (2) and 509 of the Omnibus Crime Control and Safe Street Act of 1973 (Public Law 93 - 83) which provides that no person shall"on the ground of race , color, national origin, or sex be excluded from participation in , be denied the benefits of , or be subject to discrimination under any program or activity funded . . . with funds made available under this title." This complaint is also filed pursuant to regulations adopted by the Law Enforcement Assistance Administration which further prohibit discrimination in employment and require affirmative action to eliminate discriminatory employment practices, 38 Fed. Reg. 6388 (March 9,1973) , 38 Fed. Reg. 6415 (March 9,1973) and filed in accordance with Title VI of the Civil Rights Act of 1964 , as amended (42 U.S.C.A. 2000(d) et Seq.) prohibiting racial discrimination in the use of federal benefits and Title VII of the Civil Rights Act of 1964,

as amended (42 U.S.C.A. 2000(e) et seq.) prohibiting racial discrimination in employment by agencies of state and local government.

Complainants

III

Complainants are the Guardians Association , James Hargrove , President of the Association , Rita Jackson , who applied to become a police officer in the New York City Police Department but was refused employment because she took and failed the written Civil Service Examination for that position, and Joe L. Wright who will not be promoted because of a low passing grade forthe postion of Sergeant in the New York City Police Department.

IV

James Hargrove, a Black man and a resident of the City of New York for thirty five years , has been a sworn member of the New York City Police Department beginning in June,1961 and continuing without interruption to the present. He currently serves as President of the Guardians Association , a position he has held since 1974. Prior to becoming President , he served as Chairman of the board of directors in 1973 , 1st Vice President 1972 and 1971 , and as a member of the board of directors for five years prior. As a member of the Police Department he has served in the ranks of Patrolman and Detective prior to his present rank of Sergeant with a wide range of job assignments in each rank. He took and passed the written examination for the rank of Lieutenant given by the Civil Service Commission on 11/17/73 and was rated list number 837 out of 875 on the list. This list number is not expected to be reached.

V

The Guardians Association of the City of New York Police Department is an not for profit corporation ,chartered in 1949, Guardians Association members are a majority of sworn Black members of the New York City Police Department along with non sworn members of the Department. The Association was organized by Black Police officers to improve relations between the Department and the predominantly Black communities of the City of New York and to improve relations between themselves and the department. The Association ,through it various officers and members has on occasion spoken out publicly on issues of public importance and concern ,including issues as corruption in the department, racial

discrination within the department , and the use of excessive force by department members. A primary purpose of such public statements has always been to improve the integrity and quality of police service to all residents of the city of New York. Although the Association , in pursuing its objectives, has occasionally criticized Department rules and orders, the Association has continually urged its members to enforce department rules and orders.

VI

Complainant Rita Jackson is a citizen of the United States and a resident of the City of New York. On September 1,1973 she applied for a position of Police Officer in the New York City Police Department and on Dec. 15,1973 she took and failed the written Civil Service Examination number 3014 for that position. This examination has not been validated as to job relatedness. The results of the examination have demonstrated a disparate and discriminatory impact against Black candidates. (see attached percentile distribution chart and table).

VII

Complainant Joe L. Wright is a sworn member of the New York City Police Department and a resident of the City of New York. Joe L. Wright has served beginning in June 1968 and continuing without interruption to the present. On 11/10/73 he took and passed the written Civil Service Examination for the position of Sergeant New York City Police Department. His examination mark was 79.5 % and it expected that he will never be appointed to the position of Sergeant.

Respondents

VIII

The City of New York is a municipal corporation pursuant to the laws of the State of New York . The salaries of Police Department members are paid by New York City , and also are withheld by New York City , in accordance with Department orders issued by the Police Commissioner. The City of New York acting through its Civil Service Commission also has ultimate responsibility for the hiring and Promotional practices and policies affecting the department.

This is with the exceptions for the rank of "Detective" and those ranks above that of Captain, which are invested in the Police Commissioner

IX

Michael J. Codd is the Commissioner of the New York City Police Department, an office created by the city of New York pursuant to a grant of authority by the State of New York. By virtue of this public office, Commissioner Codd is empowered:

(a) to direct the employment and personnel practices of the department including hiring;

(b) to supervise and control the conduct of department members as they perform Department work;

(c) to suspend members without pay, and otherwise discipline members as punishment for alleged infractions of Department rules;

(d) to direct that department members be fired;

(e) to assign personnel; and

(f) to direct promotions to the rank of Detective and to ranks above that of Captain.

X

Alphonse D'Ambrose, James Smith and Josephine Gambino are members of the city of New York's Civil Service Commission. These respondents are responsible for the administration and operation of the Civil Service Commission, including the development and administration of written and medical examinations as prerequisites to employment with the New York City Police Department. These respondents are also responsible for certifying to the New York City Police Department those applicants who are eligible for employment and promotion.

Discriminatory Practices of Respondents

XI

An individual applying for employment as a Police Officer in the New York City Police Department must meet entrance requirements and must pass a written examination developed and administered by the Civil Service Commission. Applicants who pass the written examination must then pass a physical and a medical examination developed and administered by the Civil Service Commission.

Those applicants passing the written, the physical and the medical examinations are placed on an eligible list, being ranked in the order of their scores on the written examination. Background investigations , conducted by the New York City Police Department and reviewed by the New York City Department of Personnellare made of persons on the eligible list , and those found not to qualify on the basis of the investigation are removed from the eligible list. Thus, as the New York City Police Department needs additional Police Officers , the names of qualified applicants are certified by the Civil Service Commission and furnished to the New York Police Department from the eligible list and such applicants are offered employment by the New York Police Department.

Under the aforementioned system of hiring , respondents have unlawfully discriminated against members of the class representing complainants in the following ways, among others:

(a) The written entrance examination disqualifies a dis - proportionately high number of Black applicants and Spanish surnamed applicants as compared to white applicants, and this requirement has not been professionally developed or validated as being predictive of or significantly related to the ability of applicants to perform the duties of Police officer.

(b) The Physical examination of agility has operated to disqualify a substantial number of females.

(c) The medical examination has been administered to dis - qualify a disproportionately high number of Black applicants and Spanish surname applicants as compared to white applicant as a result of the arbitary disqualification of such minorities for conditions such as alleged heart murmurs or "rapid" heart or pulse, without the performance of medical tests necessary to establish correct diagnoses of such conditions;

(d) The background investigation has been administered to dis proportionately disqualify a high number of Black applicants and Spanish - surnamed applicants as compared to white applicant ;and

(e) The written promotional examination operates to disqualify a disproportionately high number of Black and Spanish surnamed members of the department from promotion and higher pay ,and this requirement has not been professionally developed or validated as being

predictive of or significantly related to the ability of applicants to perform the job. The New York City Police Department has not conducted concurrent validity studies to determine whether or not a corelation existed between performance evaluations and the results of the written examinations.

XII

Practices of respondents have been found to have a discriminatory effect on the recruitment ,promotion , and displinary proceedings taken against Blacks and other minority persons. New York City Rand Institute Report R - 702 - N.Y.C. , May 1971 , Recruitment and Retention of Minorities.

XIII

On March 9,1973 , the Law Enforcement Assistance Administration issued equal employment opportunity (EEO) guidelines (38 Fed. Reg. 6388) applicable to police department receiving financial assistance from LEAA. These guidelines together with other EEO guidelines and regulations issued by LEAA provide a mimumum standard of equal employment opportunity for state and local law enforcement agencies. The policies and practices of the New York City Police Department do not conform to this standard in several respects including the following :

(a) The New York City Police Department has no plan and program for advancement of minority police officers into supervisory ranks even though it has been shown that minorities are substantially underrepresented at these job levels;

(b) The New York City Police Department has utilised a practice of under utilization of Blacks as commanders of units,comparable to their rank.

(c) The New York City Police Department has not significantly changed its entrance and promotional examinations to eliminate their discriminatory impact against Blacks and other minorities or produced evidence that these examinations have been professionally validated as accurate measures of job petformance.

<u>Relief Requested</u>

XIV

Therefore, the complainants ask that the Administrator of the Law Enforcement Assistance Administration take the following actions:

(a) cause a prompt investigation to be made of the facts and circumstances alleged in this complaint;

(b) initiate an administrative enforcement proceeding against respondents

(c) make a prompt determination that respondents have failed to comply with LEAA equal rights guidelines;

(d) cease all payments to the New York City Police Department until said Police Department stops the above mentioned discriminatory employment , promotional , assignment and termination practices , as the LEAA Administrator is required to do under section 509 of Public Law 93 - 83 (Omnibus Crime Control Act of 1973);

(e) award such other relief to complainants as may be appropriate.

UNITED STATES DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
WASHINGTON, D. C. 20531

September 8, 1975

Commissioner Michael Codd
Police Commissioner
1 Police Plaza
New York, New York 10003

Dear Commissioner Codd:

On August 22, 1975, Mr. Andrew Strojny, other members of LEAA, and I, met with Deputy Chief Morse and other members of the New York Police Department, members of the Corporation Counsel's Office, and members of the Department of Personnel. The purpose of that meeting was threefold.

First we explained that this Office had a complaint alleging that the Police Department's employment practices were unlawfully discriminatory. As a result the New York Police Department has been scheduled for an onsite civil rights compliance review pursuant to our responsibilities under Section 518(c) of the Crime Control Act of 1973, 42 U.S.C. 3766(c), and LEAA's nondiscrimination regulations 28 C.F.R. 42.201 (Subpart D). The standards we enforce are identical to those applicable to Title VII of the 1964 Civil Rights Act as amended, 42 U.S.C. 2000e et seq. and Section 122 of the State and local Fiscal Assistance Act of 1972, 31 U.S.C. 1242. The Civil Rights Division of the United States Department of Justice and the Office of Revenue Sharing, the agencies responsible for enforcing the above statutes, have been informed of our pending investigation.

Second, we explained that because of the size of the Police Department our Office intends to retain a team of consultants to determine what the factual situation is concerning the Department's employment practices and procedures as they might relate to racial and ethnic minorities and women.

That process will result in a draft report which will be submitted to the Police Department for comment on its factual accuracy. If necessary, further investigation will be undertaken to resolve any factual disagreements. A final factual report will then be made and that will become a public document. That document will form the basis for our legal judgement of whether the Department's employment practices and procedures are unlawfully discriminatory. If there should prove to be such a problem, this Office will attempt to resolve it by entering into a formal voluntary compliance agreement with the Department. If for whatever reasons, that should prove not to be possible, we would have to recommend the initiation of formal legal proceedings. In addition, we would make our findings known both to the Civil Rights Division and the Office of Revenue Sharing. We explained that we had tentatively retained two consultants, Mr. Jack Boyer of Chicago, Illinois, and Mr. Frank Espada of Rockville, Maryland. As agreed at the meeting, their resumes are attached. A third member of the team is yet to be hired. We hope to begin field work in early October.

The third item dealt with at this meeting was the adequacy of the Department's Equal Employment Opportunity Program (EEOP) as required by LEAA regulations 28 C.F.R. 42.301, et seq., Supbart E. As you know, an EEOP is required to be in existence prior to the authorization of LEAA funds for new and continuing programs, see specifically 28 C.F.R. 42.305. We pointed out to Assistant Chief of Personnel Morse that upon preliminary examination, the Department's EEOP appeared deficient in many respects and gave him a copy of a check-list showing the initial deficiencies. We pointed out that given these deficiencies all pending grants to the Police Department would be special conditioned. This condition would provide that if an EEOP in conformity with federal regulations is not received and approved by the Office of Civil Rights Compliance by September 30, 1975, further drawdowns of those grants will cease until such an EEOP is provided and approved by the Office of Civil Rights Compliance.

Deputy Chief Morse indicated he thought, on the basis of the information we provided, that the September 30 deadline could be met. We then explained that although the Department then may have an adequate EEOP, it does not follow that there are no civil rights problems. The EEOP merely allows us to identify any problems which might exist.

After a more thorough analysis of the Department's EEOP the specific information that is lacking is as follows:

1. There is no listing of duties for each job classification (sworn and nonsworn) utilized by the Police Department. The listing should include actual job classification not EEO-4 groupings of classifications. See 28 C.F.R. 42.304.

2. There is no listing of what qualified one for different rates of pay within each job classification i.e. auxiliary duties, seniority, etc. See 28 C.F.R. 42.304(a).

3. There is no listing by race, sex, and national origin of employees within each job classification. This should be done for each job classification and not EEO4 groupings of classifications. This applies to both sworn and nonsorn classifications utilized by the police department 28 C.F.R. 42.304(a).

4. There is no listing of shift and location assignment by race, sex, and national origin i.e. the race, sex, and ethnic makeup of those assigned to each precinct and on each shift in the precinct. Also, the race, sex, ethnic makeup of specialized units and shifts within those units i.e. Homicide Division, Juvenile Division, Administrative Division, Burglary Division etc. 28 C.F.R. 42.304(a).

5. There is no indication by the sex of an officer of the number of disciplinary charges or sanctions imposed. There is also no indication of the number of disciplinary charge and sanctions imposed as a result against nonsworn employees by race, sex, and national origin. See 28 C.F.R. 42.304(b).

6. There is no listing of applicants by job classification by race, sex, and national origin, those offered employment, and those actually hired. See 28 C.F.R. 42.304(c).

7. There is no listing, by job classification by race, sex, and national origin of those, who applied for promotion. This applies to all nonsworn classifications and all sworn classifications above the rank of lieutenant. See 28 C.F.R. 42.304(d).

8. Though there is a listing of who was actually promoted in the preceding fiscal year in the non-sworn classifications, by race, sex, and national origin, there is no similar listing for sworn classifications other than lieutenant. See 28 C.F.R. 42.304(d)

9. There is no listing by nonsworn job classification by race, sex and national origin of those who applied for transfers and those who were in fact transferred. In addition, it is not clear whether the information given for sworn classification includes involuntary transfers. 28 C.F.R. 42.304(d).

10. There is no breakdown of voluntary and involuntary terminations by sex. See 28 C.F.R. 42.304(e).

11. Available community labor statistics, especially as they relate to those with requisite skills for nonsworn classifications are lacking. See 28 C.F.R. 42.304(f).

12. The detailed narrative statement concerning the employment policies and practices for each job classification was not evident for nonsworn personnel. See 28 C.F.R. 42.304(g)

13. For both sworn and nonsworn classifications there was no indication of:

a. the types of tests used,

b. the procedures following administering and scoring the tests,

c. the weight given to test scores i.e. were they pass/fail, a ranking test, part of the overall score, etc.

d. the pass/fail rates by race, sex, and national origin of all tests used for selection of nonsworn personnel, the tests used for promotion to captain, and the non-written selection devices for patrol officer, i.e. medical exam, background check, etc.

e. statement of whether written tests and selection devices have been validated in accordance with EEOC Guidelines, 28 C.F.R. 1607 et seq.,

f. copies of the validation studies.

g. plans, if any, to validate examinations in accordance with EEOC Guidelines where this has not been done.

h. areas of non-conformity with EEOC Guidelines.

i. reasons for non-conformity with EEOC Guidelines. See 28 C.F.R. 42.304(g).

14. There is no indicated plan for dissemination of the EEOP to the general public, personnel, and applicants. See 28 C.F.R. 42.304(h).

15. There is no indication of whether applicants flows for each job classification is representative of the available workforce. This is particularly true for nonsworn classifi-cations. See 28 C.F.R. 42.303(c)2.

16. There is no indication of whether certain job classifications, position descriptions, or job applications indicate a position is for males or females only, and if so, whether such limitations have been shown to be necessary by objective facts. See 28 C.F.R. 42.303(C)2.

17. There is no indication of whether an analysis has been done of selection procedures and practices which disproportionately eliminate members of a particular racial, sexual, or ethnic group in any job classification and if so whether steps are being taken to modify or validate the procedures to predict job performance (for example does a minimum height requirement restrict the number of women and Spanish surnamed Americans who can apply for a job. If so, has that requirement been objectively shown to be necessary to perform the job). See 28 C.F.R. 42.303(c)(2).

18. There is no indication that the Department has determined if its seniority practices are responsible for an underutilization of those of a particular race, sex, or national origin in job classifications, job assignments, shift assignments, or ineligibility for various training programs. If so, what steps does the Department contemplate to deal with the situation. See 28 C.F.R. 42.303(c)3.

19. There is no indication that the Department has determined whether minority employment is inhibited by lack of transportation, lack of suitable housing in the geographic area, or other external factors. See 28 C.F.R. 42.303c(4).

Once this information is received we will be better able to determine where our onsite efforts should be focused and hopefully be of service to you and the Police Department in identifying and resolving civil rights problems without the necessity of formal legal action.

It would be helpful if you would designate a liason officer with whom we could deal with directly in arranging meetings and securing cooperation from all relevant personnel within the Department. To date we have been treating Deputy Chief Morse as acting liason officer.

Should you have any questions concerning this matter before the September 30, 1975 date for submission of the completed EEOP, please feel free to contact me or Mr. Andrew Strojny, Chief of our Compliance Review Division.

Sincerely,

Herbert C. Rice, Director
Office of Civil Rights Compliance

By: Andrew M. Strojny

Andrew M. Strojny, Chief
Compliance Review Division
Office of Civil Rights Compliance

cc: Cornelius J. Behan
Chief of Personnel

Henry Morse
Assistant Chief of Personnel

David Rose, Chief
Employment Section
Civil Rights Division

Maluku Steen
Office of Revenue Sharing

Jules Tesler
LEAA Regional Administrator

Michael Gross
SPA - Civil Rights Officer

cc: Morton Grusky, Acting Administrator
New York State Planning Agency

Ms. Keziah Walker
Supervisor of Investigation - EEOC
New York, New York

CHARGE OF DISCRIMINATION

EEOC CHARGE NO. AMENDED TFH-5110

FORM APPROVED OMB NO. 124-R0001

INSTRUCTIONS

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's District Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS SOON AS POSSIBLE. *(Attach extra sheets of paper if necessary.)*

CAUSE OF DISCRIMINATION

- [X] RACE OR COLOR
- [ ] SEX
- [ ] RELIGIOUS CREED
- [ ] NATIONAL ORIGIN

NAME *(Indicate Mr. or Ms.)* James Hargrove, Pres. Guardians Assoc. NYPD	DATE OF BIRTH August 4, 1939
STREET ADDRESS 504 Marion Street / COUNTY Kings	SOCIAL SECURITY NO. 090-30-3845
CITY, STATE, AND ZIP CODE Brooklyn, New York	TELEPHONE NO. *(Include area code)* 212-276-1806

THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME

NAME *(Indicate Mr. or Ms.)* Howard Sheffey	TELEPHONE NO. *(Include area code)* 681-8898
STREET ADDRESS 16 East 169th Street	CITY, STATE, AND ZIP CODE Bronx, New York

LIST THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST YOU *(If more than one, list all)*

NAME New York City Police Department	TELEPHONE NO. *(Include area code)* 374-5000
STREET ADDRESS 1 Police Plaza	CITY, STATE, AND ZIP CODE New York, N. Y. 10007

OTHERS WHO DISCRIMINATED AGAINST YOU *(If any)*: New York City Department of Personnel, 220 Church Street, New York, N. Y.

CHARGE FILED WITH STATE/LOCAL GOV'T. AGENCY [ ] YES [X] NO	DATE FILED	AGENCY CHARGE FILED WITH *(Name and address)*

APPROXIMATE NO. OF EMPLOYEES/MEMBERS OF COMPANY OR UNION THIS CHARGE IS FILED AGAINST: Over fifteen	DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)*: Continuing

Explain what unfair thing was done to you and how other persons were treated differently. Understanding that this statement is for the use of the United States Equal Employment Opportunity Commission, I hereby certify:

The Department of Personnel and the Police Department of the City of New York recently announced the termination of more than 1,000 Police Officers by July 1, 1975. There is less than 8% Blacks within the Police Department and the proposed terminations by rank order of seniority will cause more than 25% of those being terminated to be Blacks. This is being done although the City's total minority population of approximately 40%.

Such employment action by the above named Respondents although neutral on its face will have significant, discriminatory impact and effect on minorities (Black and Hispanic), in violation of Title VII of the Civil Rights Act on 1964, as amended.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

DATE 6/16/75	CHARGING PARTY *(Signature)* Pres. Guardians Assoc. NYPD James Hargrove

Subscribed and sworn to before this EEOC representative.

DATE 6/16/75	SIGNATURE AND TITLE Robert P. Giuliano E.O.S.

NOTARY PUBLIC

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE *(Day, month, and year)*

SIGNATURE *(If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the District Office. The Commission will notarize the charge for you at a later date.)*

EEOC FORM JUN 72 5 — Previous editions of this form may be used.

GPO: 1974 O - 535-555

CHARGE OF DISCRIMINATION

EEOC CHARGE NO. AMENDED IN451101

FORM APPROVED OMB NO. 124-R0001

INSTRUCTIONS

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's District Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS SOON AS POSSIBLE. *(Attach extra sheets of paper if necessary.)*

CAUSE OF DISCRIMINATION

- [X] RACE OR COLOR
- [ ] SEX
- [ ] RELIGIOUS CREED
- [ ] NATIONAL ORIGIN

NAME *(Indicate Mr. or Ms.)*: James Hargrove, Pres. Guardians Assoc. NYPD

DATE OF BIRTH: August 4, 1939

STREET ADDRESS: 504 Marion Street

COUNTY: Kings

SOCIAL SECURITY NO.: 090-30-3845

CITY, STATE, AND ZIP CODE: Brooklyn, New York

TELEPHONE NO. *(Include area code)*: 212-276-1806

THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME

NAME *(Indicate Mr. or Ms.)*: Howard Sheffey

TELEPHONE NO. *(Include area code)*: 681-8898

STREET ADDRESS: 16 East 169th Street

CITY, STATE, AND ZIP CODE: Bronx, New York

LIST THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST YOU *(If more than one, list all)*

NAME: New York City Police Department

TELEPHONE NO. *(Include area code)*: 374-5000

STREET ADDRESS: 1 Police Plaza

CITY, STATE, AND ZIP CODE: New York, N. Y. 10007

OTHERS WHO DISCRIMINATED AGAINST YOU *(If any)*: New York City Department of Personnel, 220 Church Street, New York, N. Y.

CHARGE FILED WITH STATE/LOCAL GOV'T. AGENCY: [ ] YES [X] NO

DATE FILED:

AGENCY CHARGE FILED WITH *(Name and address)*:

APPROXIMATE NO. OF EMPLOYEES/MEMBERS OF COMPANY OR UNION THIS CHARGE IS FILED AGAINST: Over fifteen

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)*: Continuing

Explain what unfair thing was done to you and how other persons were treated differently. Understanding that this statement is for the use of the United States Equal Employment Opportunity Commission, I hereby certify:

The Department of Personnel and the Police Department of the City of New York recently announced the termination of more than 1,000 Police Officers by July 1, 1975. There is less than 8% Blacks within the Police Department and the proposed terminations by rank order of seniority will cause more than 25% of those being terminated to be Blacks. This is being done although the City's total minority population of approximately 40%.

Such employment action by the above named Respondents although neutral on its face will have significant, discriminatory impact and effect on minorities (Black and Hispanic), in violation of Title VII of the Civil Rights Act on 1964, as amended.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

DATE: 6/16/75

CHARGING PARTY *(Signature)*: Pres. Guardians Assoc. NYPD — James Hargrove

Subscribed and sworn to before this EEOC representative.

DATE: 6/16/75

SIGNATURE AND TITLE: Robert C. Paul E.O.S.

NOTARY PUBLIC

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE *(Day, month, and year)*:

SIGNATURE *(If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the District Office. The Commission will notarize the charge for you at a later date.)*

EEOC FORM JUN 72 5 — Previous editions of this form may be used.

GPO: 1974 O - 533-655

CHARGE OF DISCRIMINATION

EEOC CHARGE NO. Amended TNY-51102

FORM APPROVED OMB NO. 124-R0001

INSTRUCTIONS

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's District Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS SOON AS POSSIBLE. *(Attach extra sheets of paper if necessary.)*

CAUSE OF DISCRIMINATION

- [X] RACE OR COLOR
- [ ] SEX
- [ ] RELIGIOUS CREED
- [X] NATIONAL ORIGIN

NAME *(Indicate Mr. or Ms.)* J. Wiscovitch, Pres. Hispanic Soc.
Mr. James Hargrove, Pres. Guardian Ass., NYPD

DATE OF BIRTH: August 4, 1939

STREET ADDRESS: 504 Marion Street

COUNTY:

SOCIAL SECURITY NO.: 090-30-3845

CITY, STATE, AND ZIP CODE: Brooklyn, New York

TELEPHONE NO. *(Include area code)*: 276-1006

THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME

NAME *(Indicate Mr. or Ms.)*: Mr. Joseph Wiscovitch, Pres. Hispanic Society

TELEPHONE NO. *(Include area code)*: 374-5300

STREET ADDRESS: P.O. Box 255

CITY, STATE, AND ZIP CODE: Congers, New York

LIST THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST YOU *(If more than one, list all)*

NAME: Police Department, City of New York

TELEPHONE NO. *(Include area code)*: 374-5000

STREET ADDRESS: 1 Police Plaza

CITY, STATE, AND ZIP CODE: New York, N.Y.

OTHERS WHO DISCRIMINATED AGAINST YOU *(If any)*:

CHARGE FILED WITH STATE/LOCAL GOV'T. AGENCY: [ ] YES [X] NO

DATE FILED:

AGENCY CHARGE FILED WITH *(Name and address)*:

APPROXIMATE NO. OF EMPLOYEES/MEMBERS OF COMPANY OR UNION THIS CHARGE IS FILED AGAINST: More than 15

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)*: Continuing

Explain what unfair thing was done to you and how other persons were treated differently. Understanding that this statement is for the use of the United States Equal Employment Opportunity Commission, I hereby certify:

There are at present, 135 Black superior officers in the New York City Police Department, with only one being assigned as a Commanding Officer.

There are at present 54 Hispanic superior officers in the New York City Police Department, with only two being assigned as Commanding Officers.

The New York City Police Department of the City of New York in its assignment of superior officers to Commanding Officer Titles, restricts the number of qualified minorities (Black and Hispanic) in violation of Title VII.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

DATE: 6/16/75

CHARGING PARTY *(Signature)*: James Hargrove Pres. G.A.

Subscribed and sworn to before this EEOC representative.

DATE: 6/16/75

SIGNATURE AND TITLE: Robert C. Paul EOS.

NOTARY PUBLIC

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE *(Day, month, and year)*:

SIGNATURE *(If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the District Office. The Commission will notarize the charge for you at a later date.)*

EEOC FORM JUN 72 5 — Previous editions of this form may be used.

GPO: 1972 O - 513-333

CHARGE OF DISCRIMINATION | Immediate Attention | 124-RC001

INSTRUCTIONS

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's District Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS SOON AS POSSIBLE. *(Attach extra sheets of paper if necessary.)*

CAUSE OF DISCRIMINATION

[X] RACE OR COLOR [X] SEX Female
[ ] RELIGIOUS CREED
[X] NATIONAL ORIGIN

NAME *(Indicate Mr. or Ms.)*
Joseph Wiscovitch, Pres. Hispanic Society-NYPD
James Hargrove President Guardians Association NYPD

DATE OF BIRTH
August 4, 1939

STREET ADDRESS
504 Marion Street

COUNTY

SOCIAL SECURITY NO.
090-30-3845

CITY, STATE, AND ZIP CODE
Brooklyn, New York 11235

TELEPHONE NO. *(Include area code)*
276-1006

THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME

NAME *(Indicate Mr. or Ms.)*
Joseph Wiscovitch, Pres. Hispanic Society NYPD

TELEPHONE NO. *(Include area code)*
914-268-2261 and 374-5300

STREET ADDRESS
P.O. Box 255

CITY, STATE, AND ZIP CODE
Conyers, New York 10920

LIST THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST YOU *(If more than one, list all)*

NAME
Police Department City of New York

TELEPHONE NO. *(Include area code)*
374-5000

STREET ADDRESS
1 Police Plaza

CITY, STATE, AND ZIP CODE
New York, New York

OTHERS WHO DISCRIMINATED AGAINST YOU *(If any)*
Department of Personnel City of New York
220 Church Street, New York, New York

CHARGE FILED WITH STATE/LOCAL GOV'T. AGENCY
[ ] YES [X] NO

DATE FILED

AGENCY CHARGE FILED WITH *(Name and address)*

APPROXIMATE NO. OF EMPLOYEES/MEMBERS OF COMPANY OR UNION THIS CHARGE IS FILED AGAINST
More than Fifteen

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)*
Continuing

Explain what unfair thing was done to you and how other persons were treated differently. Understanding that this statement is for the use of the United States Equal Employment Opportunity Commission, I hereby certify:

New York City has a black and hispanic population of approximately 40%. The New York City Police Department has a black and hispanic membership of approximately 11.6% and less than 3% of these minorities are superior officers.

The New York City Police Department and the Department of Personnel have administered examinations which are used in the selection of candidates for employment as well as promotion of incumbent Police Officers. These examinations, in and of themselves tend to have a disparate effect on minorities and females, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

DATE
5/16/75

CHARGING PARTY *(Signature)*
Joseph Wiscovitch
James Hargrove
James Hargrove Pres G.A NYPD

Subscribed and sworn to before this EEOC representative.

DATE
5/16/75

SIGNATURE AND TITLE
Robert P. Paul E.O.S.

NOTARY PUBLIC

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE *(Day, month, and year)*

SIGNATURE *(If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the District Office. The Commission will notarize the charge for you at a later date.)*

EEOC FORM JUN 72 5 Previous editions of this form may be used.

GPO: 1974 O - 533-535

CHARGE OF DISCRIMINATION | Amended | EEOC NO. 124-R0001

INSTRUCTIONS

If you have a complaint, fill in this form and mail it to the Equal Employment Opportunity Commission's District Office in your area. In most cases, a charge must be filed with the EEOC within a specified time after the discriminatory act took place. IT IS THEREFORE IMPORTANT TO FILE YOUR CHARGE AS SOON AS POSSIBLE. *(Attach extra sheets of paper if necessary.)*

CAUSE OF DISCRIMINATION

- [X] RACE OR COLOR
- [X] SEX Female
- [ ] RELIGIOUS CREED
- [X] NATIONAL ORIGIN

NAME *(Indicate Mr. or Ms.)*
Joseph Wiscovitch, Pres. Hispanic Society NYPD
James Hargrove President Guardians Association NYPD

DATE OF BIRTH: August 4, 1939

STREET ADDRESS: 504 Marion Street

COUNTY:

SOCIAL SECURITY NO.: 090-30-3845

CITY, STATE, AND ZIP CODE: Brooklyn, New York 11235

TELEPHONE NO. *(Include area code)*: 276-1005

THE FOLLOWING PERSON ALWAYS KNOWS WHERE TO CONTACT ME

NAME *(Indicate Mr. or Ms.)*: Joseph Wiscovitch, Pres. Hispanic Society NYPD

TELEPHONE NO. *(Include area code)*: 914-268-2261 and 374-5300

STREET ADDRESS: P.O. Box 255

CITY, STATE, AND ZIP CODE: Conyers, New York 10920

LIST THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT WHO DISCRIMINATED AGAINST YOU *(If more than one, list all)*

NAME: Police Department City of New York

TELEPHONE NO. *(Include area code)*: 374-5000

STREET ADDRESS: 1 Police Plaza

CITY, STATE, AND ZIP CODE: New York, New York

OTHERS WHO DISCRIMINATED AGAINST YOU *(If any)*: Department of Personnel City of New York
220 Church Street, New York, New York

CHARGE FILED WITH STATE/LOCAL GOV'T. AGENCY: [ ] YES [X] NO

DATE FILED:

AGENCY CHARGE FILED WITH *(Name and address)*:

APPROXIMATE NO. OF EMPLOYEES/MEMBERS OF COMPANY OR UNION THIS CHARGE IS FILED AGAINST: More than Fifteen

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE *(Month, day, and year)*: Continuing

Explain what unfair thing was done to you and how other persons were treated differently. Understanding that this statement is for the use of the United States Equal Employment Opportunity Commission, I hereby certify:

New York City has a black and hispanic population of approximately 40%. The New York City Police Department has a black and hispanic membership of approximately 11.6% and less than 3% of these minorities are superior officers.

The New York City Police Department and the Department of Personnel have administered examinations which are used in the selection of candidates for employment as well as promotion of incumbent Police Officers. These examinations, in and of themselves tend to have a disparate effect on minorities and females, in violation of Title VII of the Civil Rights Act of 1964, as amended.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

DATE: 6/16/75

CHARGING PARTY *(Signature)*: Joseph A. Wiscovitch, Pres. Hispanic Soc. NYPD; James Hargrove Pres. G.A. NYPD

Subscribed and sworn to before this EEOC representative.

DATE: 6/16/75

SIGNATURE AND TITLE: Robert P. Paul E.O.S.

NOTARY PUBLIC

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE *(Day, month, and year)*:

SIGNATURE *(If it is difficult for you to get a Notary Public to sign this, sign your own name and mail to the District Office. The Commission will notarize the charge for you at a later date.)*

EEOC FORM JUN 72 5 — Previous editions of this form may be used. — GPO: 1971 O - 331-833

FAIR EMPLOYMENT LAW AND MINORITY RECRUITMENT AND PROMOTION

WITHIN THE

NEW YORK CITY POLICE DEPARTMENT

By: JOHN A. COSTA
Patrolman
Legal Division

INTRODUCTION

The population of New York City in 1970 was 7,867,770. Of that number about 1,666,636 persons or about 21% are black. Also, 1,716,772 persons are Hispanics, of which 1,006,326 are Puerto Ricans; the balance of 710,446 represent 18 Latin American countries and Spain. The total New York City Spanish speaking population constitutes 21% of New York City's total population.*

The New York City Police Department has 31,017 members in the uniformed forces according to a November 1971 census conducted for the New York City Commission of Human Rights. Blacks represented 7% (2,160) and Puerto Ricans and other Spanish back ground (by surname) represented about 2.2% (699) of the total force. There are 5 Chinese, 7 "others" and 28,206 white members of the force.

The New York City Police Department is therefore 90.8% white in a city which is 42% black and Hispanic.

The above figures speak for themselves and they illustrate the gross underrepresentation of minority group members within the New York City Police Department.

In 1967 in testimony before the National Advisory Commission on Civil Disorders, Police Commissioner Patrick V. Murphy, then Public Safety Director of the District of Columbia, stated:

> "I think one of the serious problems facing the police in the nation today is the lack of adequate representation of Negroes in police departments. I think the police have not recruited enough Negroes in the past and are not recruiting enough of them today. I think we would be less than honest if we didn't admit that Negroes have been kept out of police departments in the past for reasons of racial discrimination".
> (Report of the National Advisory Commission on Civil Disorders, Bantan, March 1968, page 316)

In the fall 1971 proposal of the Personnel Bureau entitled "Comprehensive Personnel Policy for the New York City Police Department", the scalar and functional postiions held by Blacks and Hispanics in the New York City Police Department were reported.(See Appendix D and E of report). Of the 501 officers who held the rank of Captain and above, 7 were Blacks and none were Hispanic. Of the 1,081 Lieutenants, 22 were Black and 5 were Hispanic. Therefore, blacks represent only about 3% of the 3,947 superior officers although they comprise about 7% of the total force. Hispanics fared far less well. Of all the superior officers, Hispanics represent only .53% even though they comprise 2.2% of the total force.

*National Conference of Christians and Jews report.

In March 1968, the National Advisory Commission on Civil Disorders recommended among other things:

> "Police departments should intensify their efforts to recruit more Negroes.
>
> In order to increase the number of Negroes in supervisory positions, police departments should review promotion policies to ensure that Negroes have full opportunity to be rapidly and fairly promoted."
> (ibid page 316)

The fact that the lack of Hispanics and other minority groups was not addressed by the Commission was an oversight. Unfortunately, the Commission's approach was limited to dealing with the problems which arose in the 1960's out of the increasing militancy of the Negro minority. The militancy of the Hispanic and other minority groups is of more recent development.

In New York City the first positive efforts to bring more minorities into the Police Department antedate the Kerner Commission report by at least 2 years. In 1966, this Department, no doubt in response to impetus from a new administration which is sensitive to and recognizes the legitimate aspirations of the Negro and Puerto Rican of New York, initiated a program to supplement the recruitment efforts conducted by the City Department of Personnel. Street recruitment by black and Hispanic officers was the first positive attempt to inform the minority community of the department's "earnest desire to recruit as many qualified blacks and Hispanic candidates as was possible." This program has been described as resulting in a "dramatic percentage increase of minority group appointments." [1]

The fact is, however, this department's efforts to recruit more minority group members must, at best, be described as mere tokenism; at worst, as a complete failure. In the year 1964, of a total 1,396 appointments, 4.3% were black and 1% was Hispanic. In 1965, 3.4% and .8% of 2,081 were black and Hispanic respectively. In 1968 after two years of minority recruiting, of 4,279 appointments 7.2% were black and 3% were Hispanic. In 1969, 23% of 2,745 appointees were black or Hispanic (17% and 6% respectively). In 1970, the percentage of black and Hispanic

1. Comprehensive Personnel Policy for the New York City Police Department, page 2

appointees dropped back to 12% (7% and 5% respectively) of 645. In 1971, due to the job freeze, no appointments were made.*

After 5 years of efforts which have supposedly dramatically increased minority group recruitment, the fact remains the New York City Police Department is still 90.8% lily white.

In recent months the patience of minority groups seeking equality of access to civil service jobs has worn thin. In city after city recruitment, hiring and promotion practices have been increasingly challenged as discriminatory. Here in New York City a preliminary injunction has been obtained against the Board of Examiners of the Board of Education enjoining all promotion examinations for the position of principal pending trial of a class action brought by Blacks and Puerto Ricans who contend that the traditional civil service examinations discriminate against them as a group. In order to get the injunction, plaintiffs were required to show a strong likelihood of success in their action and they did.

Many of the suits have received prominent attention by the news media and have stirred considerable controversy in the community especially among civil service groups. In response to this litigation and to the possibility that a significant legal trend may be developing, Deputy Commissioner in Charge of Legal Matters, Luis M. Neco, some months back posed the following question:

> "In view of the recent decisions in cases challenging civil service appointment and promotion practices as discriminatory, will the Police Department be required to take such steps as to insure appointment and promotion of far greater numbers of minority group members so that the representation of blacks and Hispanics in the Police Department will approximate that in the city as a whole?"

As a collateral question, Commissioner Neco asked:

> "Do traditional police department competitive examinations for promotion provide for fair representation of blacks and Hispanics in the superior officer ranks?"

I was directed to make the broadest possible research in the area of civil service practices and procedures and fair employment civil rights legislation and applicable court decisio

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* Therefore, this is the only year for which data exists that the representation of minorities equaled that of whites.

In the research effort I was assisted by Mr. Israel Ruiz, Jr., a third year Columbia Law student who was taking a community student project seminar course for credit and had elected to work for the Police Department through the office of Mr. Philip Lacovara, Special Counsel to the Police Commissioner. I also received research assistance from Mr. Dean Allison, a second year New York University law student with whom I exchanged source material since he was working independently on research for a New York University Law Review article on minority members in the New York City Police Department. I also gratefully acknowledge the help of Elizabeth Dubois, Esq., attorney for the N.A.A.C.P. Legal Defense Fund for her efforts in keeping me up to date on the very latest cases.

For the past few months in New York City, a committee composed of Department heads and representatives from the Mayor's Office, Police Department, Department of Personnel and Corporation Counsel's Office has been meeting regularly to develop a proposal for presentation to the Mayor to change the civil service examination and appointment process to result in appointment of more Negroes and Puerto Ricans to the police force. As Aide to Commissioner Neco, I have attended several of the committee's meetings. The committee proposal has not at this date been finalized and nothing in this report should be construed as any indication of what the final recommendation of that group will be, nor that their views are necessarily in accord with mine, nor mine with them.

This report is divided into three parts. First, I have attempted to explain the development of current trends in fair employment law and to indicate the probable future direction of the law. Second, I have examined the appointment and promotion process in use today and tried to discover where this process and the effort to recruit and advance black and Hispanic officers has clashed. The final part of this report deals with recommendations for future change.

PART I

On January 7, 1972, the United States Court of Appeals for the 8th Circuit, ruling en banc after a rehearing on the issue of a proper remedy in a class action which established that the City of Minneapolis had discriminated against blacks and other minority applicants for its Fire Department, stated:

> "...we feel that it would be in order for the district court to mandate that one out of every three persons hired by the Fire Department would be a minority individual who qualifies until at least 20 minority persons have been so hired." (Carter v. Gallagher, Court of Appeals for 8th Circuit, Slip Opinion No. 71-1181, January 7, 1972, page

The Court in Carter v. Gallagher (supra) has gone further than any other appellate court to date in seeking a judgment that is constitutionally sound and yet still effective to redress members of a class for past discrimination. The single dissenting judge in Carter stated that employment preferences based on race are prohibited by the Fourteenth Amendment. This decision of the 8th Circuit is reflective of a rapidly developing case law which is going to present a profound challenge to the traditional civil service system in this country.

Carter is likely to receive further review by the United States Supreme Court this year. In my opinion, there is a strong likelihood that the decision will be affirmed. A "quota system"* for public hiring is a rather startling but not unexpected development. To understand how a court reached that result it is necessary to trace the recent development of what I call "no fault fair employment law".

As recently as 1967, the thrust of American fair employment laws could be stated as:

> "...the conduct which ultimately forms the basis of a finding of discrimination under fair employment laws is prohibited only when it is coupled with a certain state of mind. Thus, discrimination is essentially an equivocal act accompanied and inspired by the mental element of prejudice. It is the motive that distinguishes the prohibited act, not the act itself..."

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* described by the majority in Carter as "an alternating ratio".

1. Training Materials For Equal Employment Lawyers, Part 1, page Columbia Law School Project in Fair Employment, George Cooper and Harriet Rabb, Unpublished Manuscript.

This view influenced virtually all fair employment enforcement efforts until the late 1960's, and, as a consequence very little was accomplished. Factual problems of proof render the statutes and other provisions powerless against patterns and practices which grossly limited employment opportunities of blacks, women and other minority groups.[1]

In 1945, New York State enacted legislation creating the State Commission Against Discrimination (Chapter 118 Laws of 1945). The Commission was supposed to have the power to

> "eliminate and prevent discrimination in employment because of race, creed, color or national origin, either by employees, labor organizations, employment agencies or other persons..."
> (Section 290, Executive Law, McKinneys, 1951 Edition).[2]

The Commission also has jurisdiction to and power to eliminate and prevent discrimination in employment in all public agencies. (Board of Higher Education of the City of New York v. Carter, 14 NY 2d 138, 250 NYS 2d 33, 1964).

Nevertheless, in New York and other states, employment data from World War II through the 1960's comparing blacks and whites showed no significant change over the years in the ratio of black to white unemployment or comparative pay rates.[3]

Under the traditional interpretation of fair employment laws, few objective practices were challenged. The emphasis was on the language in most statutes which prohibited discrimination "because of race". Difference in treatment resulting from employment policy that made no reference to race was thought attributable to the policy itself and not to racial classification unless that policy was a mere subterfuge for specific discriminatory intent.[4]

This interpretation has been recognized to be inadequate in view of the nature of the racial discrimination in employment. This country's history of racial segregation and discrimination has produced rigid patterns and differences in housing, education culture and employment status. Blacks and other minorities in

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1. ibid.
2. Now called the State Commission for Human Rights by virtue of 1969 Amendment - Chapter 359 Laws of 1969.
3. Op. cit page 2
4. Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion, by George Cooper and Richard B. Sobol - Harvard Law Review, Volume 82, No. 8, June 1969, page 1600.

the United States, because of race, are likely to live differen than whites, have gone to inferior schools, received less cultu stimulation than whites and to have been excluded for racial reasons from many employment opportunities.

The enactment of Title VII of the Civil Rights Act of 1964, however, marked the beginning of a new interpretive approach to reform employment practices which limited the opportunities for equal employment of minorities where there was no apparent intent to discriminate.

Effective July 2, 1965, it became an unlawful employment practice for an employer:

> "(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex or national origin;
>
> or
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."
> (Title 42, Section 2000e (21U.S.C.A. "Unlawful Employment Practices -Employer Practices".)

The following section limits the scope of "unlawful employment practice" to permit use of a merit system and ability tests.

> "Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designe intended or used to discriminate because of race, color,

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religion, sex, or national origin..."
(42 U.S.C. 2000e-2(h)

The next section important to this discussion makes it clear that Title VII was not intended to provide for preferenti treatment to correct a percentage imbalance. It reads:

> "Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual to to any group because of the race, color, religion, sex, or national origin or such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area".
> (42 U.S.C. 2000e-2(j)

However, by virtue of Section 2000e (Title 42 U.S.C.A.) the term "employee" within the meaning of the Equal Employment Opportunity Act was restricted to mean (insofar as pertinent):

> "a person engaged in an industry affecting commerce ...and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof..."

Therefore Title VII of the 1964 Civil Rights Act has had no applicability to employment by municipalities. Nevertheless, the act has great importance because, as we shall see, its rationale and court interpretation has in large measure been adopted as law in civil rights cases involving job discriminati by governmental agencies.

The first major Title VII case to reach the United States Supreme Court was Griggs v. Duke Power Company, U.S._____, 28 L.Ed. 2d 158, 91 S.Ct., _____March 8, 1971.

Plaintiffs were Negro employees who, pursuant to Title VII of the Civil Rights Act of 1964, challenged Duke Power Company's requirement of a high school diploma or passing of intelligence tests as a condition of employment in or transfe to jobs at the plant.

At issue was the effect of Section 703(h) of Title VII which authorizes the use of any professionally developed ability test, provided that it was not designed, intended, or used to discriminate. The District Court found, and the Court of Appeal agreed, that plaintiffs had not shown a discriminatory purpose in the adoption of the diploma and test requirements. The Court of Appeals also held that, absent such discriminatory purpose, use of the requirements was permitted. The Court of Appeals rejected the claim that because a disproportionate number of Negroes were rendered ineligible for promotion, transfer and employment, the requirements were unlawful unless shown to be job related.

The jobs in question had formerly been filled only by white employees as part of a longstanding practice of giving preference to whites. The Duke Power Company had abandoned its policy of restricting employment of Negroes on July 2, 1965, the date on which Title VII became effective. On that date it instituted the requirement for testing and high school education The District Court found that while the company previously follo a policy of overt racial discrimination in a period prior to the act, such conduct had ceased.

The United States Supreme Court reversed the decision of the Court of Appeals. The Court stated that the objective of Congress in the enactment of Title VII was:

> "to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group over other employees".
>
> "Under the Act, practices, procedures or tests neutral on their face and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory practices". (28 L.Ed. 2d 158,163)

The Supreme Court further stated that Title VII:

> "proscribes not only overt discrimination, but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If

> an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited." (Emphasis added) (supra, page 164)

Moreover, the unanimous decision of the court (one Justice took no part in its consideration) was that Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question.

Specific findings in the Griggs case were that the selection devices used by Duke Power Company were not shown to bear a demonstrable relationship to successful performance of the jobs for which they were used and had been adopted without meaningful study of their relationship to job performance ability.

The Court in Griggs also stated that the Equal Employment Opportunity Commission's (E.E.O.C.) Guidelines interpreting section 703(h) were entitled to great deference. The Guidelines issued in August 1966, and updated in August 1970, provided that employers using tests have available

> "data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the jobs for which candidates are being evaluated". (29 CFR sec. 1607, 35 Fed.Reg. 12333 [August 1, 1970] at section 1607.4(c).

The Supreme Court also felt that the legislative history of section 703(h) supported the E.E.O.C.'s construction requiring that employment tests be job related.

The Griggs case is particularly significant to civil service because of its traditional reliance on competitive testing for appointment and promotion. This is so, despite the fact, previously mentioned, that Title VII is specifically not applicable to state and municipal agencies. First, there is presently pending the U. S. Congress (S.2515-Cal. No. 412)* a bill which will extend Title VII coverage to municipal workers. Secondly, notwithstanding the non-applicability of Title VII, the underlying rationale has influenced decisions of courts where municipal hiring practices have been challenged as discriminatory.

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* The House has passed a bill without amendment to extend E.E.O.C. coverage to municipalities. The Senate has voted down a floor amendment which would have eliminated Title VII coverage of municipal and state workers from its bill. The prospect for the final enacted version to extend E.E.O.C. coverage to municipal workers is excellent according to Pat Shakow, Legislative Aide to Senator Javits.

In 1968 in Jones v. Alfred Mayer Company, 392 U.S. 409, (1968), the Supreme Court resuscitated the Civil Rights Act of 1866 with a holding that its prohibitions applied to racial discrimination by private persons in the sale of property. The Court rejected the argument that the 1964 Civil Rights Act had superseded the 1866 Act in the area of fair housing. The secti of the 1866 Civil Rights Act upon which the holding rests provi

> "All citizens of the United States shall have the same right in every state and territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property". 42 U.S.C. 1982

It was not long after the Jones case (supra) that anothe post-Civil War Civil Rights section was used to challenge alleg racial discrimination in employment by private persons. Sanders v. Dobbs Houses, Inc. 431 F. 2d 1097 (5th Cir. 1970); Walters v Wisconsin Steel Works, 427 F. 2d 476 (7th Cir. 1970); Washington v. Baugh Construction Co. 313 F. Supp. 598 (W.D. Wash. 1969); Clark v. American Marine Corp, 304 F. Supp 603 (E.D.La. 1969); Dobbins v. Local 212 I.B.E.W., 202 F. Supp.414 (S.D. Ohio 1968). The section that formed the substantive basis for federal jurisdiction in the above cases provides:

> "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalti taxes, licenses, and exactions of every kind, and to no other". (42 U.S.C. 1981)

Arguments that the simple provisions of the 1866 Act sh not be given a vitality which renders the 1964 Act superflous have had no greater weight with regard to racial discrimination in employment than they have with regard to racial discrimiantio in the sale of housing.[1]

Another section of post-Civil War Civil Rights legislati has been held to provide a remedy for discriminatory practices in state employment. This statute provides:

1. Training Materials for Equal Employment Lawyers, George Co and Harriet Rubb, Part I, page 5, unpublished manuscript prepared for Columbia Law School.

"Every person who under color of any statute, ordinance, regulation, custom, or usuage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress". 42 U.S.C. 1983

Because of the requirement that the deprivation of a right, privilege or immunity be done under color of law by a "person", the above statute has been applied primarily to officers of public agencies. An important case on this point for this discussion is Penn v. Stumpf, 308 F. Supp. 1238 (1970).

Penn was a class action seeking declaratory and injunctive relief alleging discrimination in employment by the City of Oakland Police Department. Defendants were the Commissioner of the Oakland Civil Service Board, the Personnel Director and the Chief of Police. Plaintiffs represented the class of all Negro, Mexican American and Spanish surname and other minority group members who, (1) had been denied or would be denied appointment as police officers because of discriminatory procedures used to select policemen and (2) those who would be eligible for employment but were unaware of or unable to accept such opportunities because of a discriminatory recruiting program surrounding selection of policemen.

Defendants moved to dismiss on the grounds that the suit was in essence a suit against the municipality of Oakland and as such was not maintainable under 42 U.S.C. Section 1983 and also that the plaintiffs had not made out a prima facie case of racial discrimination.

On the issue of jurisdiction, the Court stated that where the relief sought was in the nature of a declaratory judgment or injunction, rather than for damages, there was no sound reason to immunize municipal officials from suit under the Civil Rights Act.

Plaintiffs alleged that hiring and recruiting of officers the Oakland Police Department was discriminatory to members of minority racial and ethnic groups because:

1. Members of the department doing the recruiting were virtually all white and had not been screened for knowledge of non-Caucasian culture or for the presence of possible racial or ethnic biases;

2. The recruiting activities did not take into account the cultural differences in non-Caucasian communities; and

3. The written mental ability test discriminated against minority group applicants.

Plaintiffs also cited statistics which showed a marked discrepancy between the percentage of the Oakland population as a whole which was non-Caucasian and the percentage of non-Caucasian employees in the police department. It was further contended that this showing amounted to prima facie proof of discrimination in hiring.

On their motion to dismiss, defendants contended that the same procedure was followed to select recruits for the Oakland Police Department no matter what the racial or ethnic background and therefore, no group or class was discriminated against. Defendants also contended that the testing and interviewing procedures were "neutral", and if more Caucasians became policemen than did Negroes or Spanish surname applicants, it was the result of the fact that Caucasians tend, on the whole to have "better" educational and cultural backgrounds than do non-Caucasian applicants.

The District Court denied the defendant's motion. With respect to the use of intelligence tests the court, citing a law review article,* stated:

> "While general intelligence tests are a commonly used method of screening applicants in many phases of public and private employment, recent studies on culture differences have made the validity of such tests increasingly suspect". 305 F. Supp. p. 242

The court also cited the District Court opinion in Griggs v. Duke Power Company, 292 F. Supp. 243 (1968) as requiring, as a minimum, that any tests used be professionally developed. Since plaintiffs had alleged that the tests in question had not been professionally developed or otherwise validated and given the striking statistical discrepancy between the total percentage of non-Caucasians in the Oakland community and the total percentage of non-Caucasians in the Oakland Police Department**, the Court stated there were sufficient allegations

* G. Cooper and R. Sobol, "Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion", 82 Harv. L. Rev. 1598, 1643-1643 (1969)

** The Negro population of Oakland was between 32% and 45%; the Negro population of the Police Department was between 3% and 4%.

of discrimination to support the complaint. The Penn case was apparently settled or abandoned by the plaintiffs as there was no further report of it.

Nevertheless, it has been firmly established there is a federal forum available to classes of persons experiencing discrimination in employment by public agencies, albeit, the proper defendant must be an officer of a concededly public agency. See Carter v. Gallagher, 3 C.C.H. Empl. Prac. Dec. Section 8205 (D. Minn., March 9, 1971) - Fire Department; Arrington v. Mass. Bay Transportation Authority, 306 F. Supp. 1355 (D. Mass. 1969) - Transit Wrokers ; Jackson v. Wheatley School District No. 28, 430 F. 2d 1359 (8th Cir. 1970) - School Boards; Chiaffitelli v. Dettmer Hospital, Inc., 437 F. 2d 429 (6th Cir. 1971), Mizell v. North Broward Hospital District, 427 F. 2d 468 (5th Cir. 1970), Cypress v. Newport News General and Nonsectarian Hospital Assoc., 375 F. 2d 648 (4th Cir. 1967) - Public and semi-public hospitals; Johnson v. Louisana State Employment Service, 301 F. Supp. 675 (W.D.La. 1968) - State employment services; Castro v. Beecher, No. 70, 1220 (W. Dist. Ct. Mass. Nov. 19, 1971), Penn v. Stumpf, supra, - Police Departments.

In New York City the first action alleging racial discrimination in civil service employment which is traceable to the doctrine enunciated in Griggs is that of Chance v. Board of Examiners and Board of Education of the City of New York, Dist. Court, So. Dist. 8 N.Y., 70 Civ. 4141. This case is a class action for declaratory judgment and injunction by representative plaintiffs who alleged that the selection process for the position of school principal discriminates against blacks and Puerto Rican. Trial of this action was scheduled to begin February 15, 1972. However, plaintiffs sought and were granted, on a strong showing of likelihood of success, an injunction restraining defendants from conducting promotion examinations and from promulgating eligible lists on the basis of such examinations until the trial of the issue. (Supra, 70 Civ. 4141, July 14, 1971)

On their application for preliminary injunction plaintiffs alleged that the competitive examination for supervisory position administered by the Board of Examiners discriminated against persons of black and Puerto Rican race and had not been validated or shown to fairly measure the skill, ability and fitness of applicants to perform the duties of the positions for which the examinations were given, with the result that success on the examinations did not indicate in any way that the candidate would succeed as a supervisor.

The plaintiffs pointed out that of the 1000 licensed principals of New York City public schools, only 11 or about 1%

are black and only 1 is Puerto Rican. Also, of the 1,610 Assistant Principals of New York City junior high and elementary schools, only 7% are black and .2% are Puerto Rican. Statistical surveys conducted by the parties to this action disclosed that white candidates passed supervisory examinations at from 1 and 1/2 to 2 times the rate of black and Puerto Rican candidates. Statistical data also disclosed that whites passed examinations at a proportionately higher rate in three times as many examinations as the non-whites. The court found that the probability of these results occurring by chance was less than 1.05 in 1,000. This finding was based on the expert testimony of statistical analysis of the pass/fail survey results which were not disputed. With regard to the gross aggregate pass/fail statistics which indicated that the overall pass rate of white candidates was 44.3% and that of non-white was 31.4%, the court was impressed by expert testimony that the probability of the difference being a chance result not related to the factor of race was less than one in one billion. (page 17 of slip opinion).

The court was also impressed by statistics which indicate that New York City had the lowest percentage of black and Puerto Rican Principals and Assistant Principals in its school system when compared to the cities of Detroit, Philadelphia, Los Angeles and Chicago. The court however, refused to accept as relevant evidence the racial composition of New York City on the ground that that population did not correspond with the population of the pool of candidates eligible to compete for the positions in question.

On the basis of the statistical evidence considered relevant, the District Court concluded that:

> "the examination prepared and administered by the Board for the licensing of supervisory personnel in New York City schools do have the de facto effect of discriminating significantly and substantially against qualified Black and Puerto Rican applicants". (page 23 of slip opinion)

> "...the existence of such discrimination, standing alone, would not necessarily entitle plaintiffs to relief. The Constitution does not require that minority group candidates be licensed as supervisors in the same proportion as white candidates. The goal of the examination procedures should be to provide the best qualified supervisors, regardless of their race, and if the examinations appear reasonably constructive to measure knowledge, skills and abilities essential to a particular position, they should not be nullified because of a de facto discriminatory impact". (page 23 of slip opinion)

Accordingly the court took up the question whether the examinations were "job related". Plaintiffs contended that upon a showing of discriminatory impact, the burden was on the Board to show a compelling necessity or justification for the tests having an unintended discriminatory effect. The line of cases culminating in Griggs v. Duke Power Co. was relied on to support plaintiffs contention. The District Court stated those cases arose under Title VII of the 1964 Civil Rights Act, 42 U.S.C. 2000e, et seq., and therefore, while relevant, were not controlling. Nevertheless, the court stated:

> "where official conduct discriminates as to race it is 'constitutionally suspect', subject to 'most rigid scrutiny' and bears a 'very heavy burden of justification'..."

On the strength of the above authorities and since the situation was parallel to that in Griggs, the court was

> "satisfied that where, as here, plaintiffs show that examinations result in substantial discrimination a strong showing must be made by the Board that the examinations are required to measure abilities essential to performance of the supervisory positions for which they are given."
> (page 26 of slip opinion)

By its discussion of the evidence with respect to the validity, reliability and objectivity of the examinations used by the Board of Examiners, the District Court's opinion makes it clear that the Court was aware of and considered the question in light of professional testing principles and technical information made available by the parties.

The Court accepted the proposition that before an examination will be recognized as a reliable instrument for measuring the fitness and ability of a candidate to perform tasks demanded by a given position, the examination should be validated i.e., shown to be reasonably capable of measuring what it purports to measure. The first step is to construct an examination that will elicit information that is relevant to the job for which it is given; if so the examination has "content validity." In constructing an examination with content validity, a job analysis of the positions duties should be prepared to enable examiners to formulate questions which will measure these characteristics. Thereafter, the validity of an examination to select the best qualified candidates may be checked empirically by comparisons of later performance of successful candidates with their test scores. A significant correlation between test scores and later performance indicates "predictive validity."

If an examination has the above characteristics and it is administered objectively and free from bias, the court stated it is a "useful selection tool". (page 29 of slip opinion) The court also recognized (as did both sides) that examination procedures may have weaknesses in testing for high level executive positions.

With the above considerations in mind the court examined the structure and procedure of the Board of Examiners supervisory examinations. These examinations had been combination essay and short answer with written and oral portions.

The court found that the Board of Examiners had not taken sufficient steps to insure validity, either for content or predictiveness, even though it had recognized such an end as a desirable goal.

The court found many of the short answer and essay questions to have little relevance to qualities expected of a school supervisor, but were rather directed at testing a candidate's ability to memorize. The court found support for its analysis in the Arco study book for Principal, Assistant to Principal positions which emphasized a course of training in memorization and use of mnemonic devices. The court stated:

> "The ability to memorize and regurgitate laundry lists of pat answers is not, we hope, a true test of a candidate's qualifications for a supervisory position".
> (page 40 of slip opinion)

The District Court concluded:

1) that the examinations for supervisory personnel have the de facto effect of discriminating significantly and substantially against black and Puerto Rican applicants;

2) such a discriminatory impact is constitutionally suspect and places the burden on the examiners to show the examination can be justified as necessary to obtain persons with skills necessary to successful performance; and

3) there appeared to be a strong likelihood that plaintiffs would prevail on the merits at trial.

Therefore, preliminary relief enjoining all further examinations and appointments during the pendency of the action was granted.

The Chance case as it has thus far developed represents an indictment of the civil service selection system as irrelevant rather than racist. If plaintiffs are successful after trial of the case, the issue of the proper remedy to be applied will be decided.

This discussion was begun with the most recent statement of a Federal Appellate Court in fashioning a remedy to redress members of a class who have proved they were victims of past discrimination. At this point it is necessary to go back to the Carter v. Gallagher Court of Appeals for the 8th Cir. Slip Opinion No. 71-1181, January 7, 1972) for analysis as to how the court arrived at its conclusion.

The Carter case began as a class action for a declaratory judgment and injunctive relief by representative plaintiffs who alleged discrimination in hiring of blacks and Spanish surname minority group members for the City of Minneapolis Fire Department.

The District Court found that it had jurisdiction under 28 U.S.C. 1343(3) and (4), that the practices and procedures of the Minneapolis Civil Service Agency over a period of 25 years had involved a pattern or practice of racial discrimination against minorities in violation of 42 U.S.C. 1981 and 1983 and that an affirmative action plan used for the last two years had not eliminated the effects of such discrimination. The court also concluded that it had the power to issue a decree which would eliminate the continuing effects of past discrimination. In addition to other relief, the District Court ordered the absolute preference in the hiring of 20 minority fire fighters and granted an injunction to prevent application of local laws requiring certification of eligible employees on the basis of their relative standing on competitive examinations. (3 E.P.D. 8205, U.S. D. Ct. Minn., March 3, 1971).

On appeal from the District Court, an 8th Circuit Court of Appeals three judge panel modified the judgment. It affirmed the judgment except that portion which granted absolute preference in the hiring of 20 minority group members (3 E.P.D. 8335 - U.S. Court of Appeals, 8th Cir., No. 71-1181, Sept. 9, 1971). The court stated that a federal trial court had power in the exercise of its equitable powers to fashion a remedy which would eliminate the present effects of past discrimination as well as to bar like discrimination in the future, but it was in error for a court to require municipal officials to give absolute preference to 20 minority applicants who met the qualifications for the position under the standards as revised in the judgment of the District Court. This type of preference, according to the Court, would

amount to reverse discrimination against white applicants whose qualifications were found to be superior to those of minority applicants and who, but for the minority preference requirement, would be entitled to priority in employment. (3 E.P.D. 8339)

A petition for rehearing of the case before the 8th Circuit en banc was granted solely on the issue of preference in hiring as a remedy to correct for past discrimination. (Court of Appeals for 8th Circuit, No. 71-1181, Jan. 7, 1972). The Court voted 8 to 1 to modify the view of the previous two-to-one decision of the three-judge panel and gave its approval for the District Court to formulate an order which would provide for the hiring of one minority member out of every three qualified persons until 20 minority persons have been hired. (page 9 of slip opinion).

One justice who sat on the first appeal panel changed his position and voted with the majority on the rehearing. The sole dissenting judge stated that while the one out of three preference provision would not discriminate against as many white applicants as an order for absolute preference, it would still give some minority persons preference over white applicants with superior qualifications. He was of the opinion that this formula still deprived persons of constitutionally guaranteed rights. (pages 11 and 12 of slip opinion).

The majority placed heavy emphasis on the following considerations in ordering one out of three minority preference:

1) Use of mathematical ratios as a starting point in the process of shaping a remedy is not unconstitutional; [citing Swann v. Charlotte-Mecklenburg Bd. of Ed., 402 U.S. 125 (1971)]

2) Because of past discrimination it is not unreasonable to assume that the minority community would still be reluctant to apply for employment absent some positive assurance that if qualified, they would be hired on more than a token basis;

3) Because of the absence of validation studies (established by the trial court), it is speculation to assume that the qualifying test, besides separating applicants, also ranks qualified applicants with precision, statistical validity and predictable significance; and

4) A one-out-of-three ratio is appropriate given the substantial minority population of Minneapolis. (6.44% including 4.3% black population).

Jurisdiction in the Carter case was based on the following Federal statutes:

28 U.S.C. 1343 "Civil rights and elective franchise"

"The District Courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
(2) To recover damages from any person who fails to prevent to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;
(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote".

28 U.S.C. 2201 "Creation of remedy".

"In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such".

28 U.S.C. 2202 "Further relief".

"Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment".

42 U.S.C. 1981 "Equal rights under the law".

"All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other".

42 U.S.C. 1983 "Civil action for deprivation of rights".

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress".

I previously indicated that section 703(j) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2(j) limits the Equal Opportunity Employment Act to remedies which do not involve preferential treatment to correct for percentage imbalance. However, in suits challenging municipal or state government hiring practices, section 2000e-2(j) is no bar to a remedy which would provide for preferential hiring. The Carter case and others like it are predicated on section 1981 of the old Civil Rights Act and the District Court sitting as a court of equity has wide power to fashion relief enforcing the mandate of Congress and the Constitutional guarantees of Equal Protection of the Law.

Furthermore, even in Title VII (Civil Rights Act of 1964) cases courts have ordered unions and employees to hire or recruit on a percentage or ratio basis even though the victims of discrimination are not identifiable as specific individuals. See U. S. v Local No. 8 et al, 315 F. Supp 1202 (W.D.Wash. 1970); Local 53 of Int. Ass'n of Asbestos Workers v. Vogler, 407 F. 2d 1047 (5th Cir. 1969); U.S. v. Central Motor Lines, Inc., 325 F. Supp 478 (W.D.N.C. 1970). Also see Contractors Association of Eastern Pa. v. Secretary of Labor- 442 F. 2d 159 (3rd Cir. 1971) (upholding the "Philadelphia Plan" under executive order #11246 for percentage minority employment goals.)

In Carter the court referred to the above group of cases and recognized that none involved an absolute hiring

preference; a remedy which "would operate as a present infringement on those non-minority persons who are equally or superiorly qualified for the fire fighters positions". A reasonable ratio for hiring minority persons who can qualify under the revised standards for a limited period of time until there was a minority representation consistent with the population mix in the area was conceived by the Court as the way to accomodate the conflicting considerations. The Court felt that this did not constitute a "quota" system because it would terminate when the court's order was implemented.

A recent class action brought in Massachusetts against the Civil Service Commission and Commissioner of Police in Boston is interesting to discuss for the approach used by the plaintiffs to show discrimination and for the approach taken by the court in deciding the issues. This is the case of Castro v. Beecher, U.S. Dist. Court, Mass, 70 Civil 1220 W, Nov. 17, 1971. It was a class action based on 42 U.S.C. 1983 in which the plaintiffs alleged that defendants were engaging in a policy and practice of invidiously discriminating against blacks and Spanish surnamed persons in the recruitment and appointment of policemen. The practices alleged to be discriminatory were:

1) furnishing on a discriminatory basis information about police employment opportunities;
2) establishing educational requirements not bearing upon any legitimate job qualifications;
3) requiring police applicants to submit to a written examination which had not been validated as predictive of successful job performance in the position of policeman; and
4) requiring police applicants to submit to other miscellaneous job requirements, such as a height test and swimming test.

The Court found no evidence of invidious discrimination and viewed the controversy in the following manner:

> "What is factually in issue is whether defendants' standards and procedures for the recruitment and hiring of policemen are significantly related to a policemen's successful job performance, and, if not, whether, as the complaint alleges, they operate as part of a policy, that is, as elements in a course of conduct, which objectively has the consequence of disqualifying black and Spanish surnamed actual and potential police applicants at a substantially higher rate than the generality of white applicants". (page 30 of slip opinion).

The court refused to accept the plaintiffs contention that since the population of blacks in Boston was 9% in 1960 and 16.3% in 1970 and the respective figures for blacks in the Boston Police Department were about 2% in 1960 and 3.6% in 1970, a prima facie case of racial discrimination was established. (page 6 of slip opinion) However, the court did state that such a "substantial discrepancy invited inquiry" (supra, page 4) Although the situation was not viewed as a prima facie showing of discrimination, the court nevertheless felt it necessary to consider in detail the challenged practices.

The court disposed of the allegation of failure to apprise plaintiffs of employment opportunities. The court found that each representative plaintiff had known about police employment opportunities and they did not have standing to raise the issue on behalf of unrepresented members of the alleged "uninformed class". Nevertheless, the District Court stated the specific grievance was not true because the Civil Service Commission had posted in its own offices, city and town offices, and in Boston police stations, notices of pending police examinations. The court found the "formal notices were adequate and non-discriminatory". (supra, page 8). The court further stated there was no duty in the absence of a court order, to take affirmative measures directed at minority groups to encourage them to apply for employment. (supra, page 9)

With regard to the statutory requirement of a high school diploma or equivalency certificate for appointment to the police department, the court found that the "requirement is obviously significantly related to job performance as a policeman "Policemen, unlike the firemen involved in Carter v. Gallagher [supra]...are in a calling in which book knowledge is an important element..." (supra, page 10)

That the Massachusetts statute was enacted subsequent to the Crime Commission's report# recommending that every police department require that all recruits have a high school diploma and ability to do college work, provided the District Court with no evidence that the requirement was adopted after "meaningful study" of the requirement's "relationship to job performance ability" [citing Griggs v. Duke Power Company, supra] The fact that no validation study was undertaken was deemed irrelevant. (supra, page 10).

As to the challenge to the 5'7" height requirement, the court stated none of the plaintiffs had standing. The only plaintiff under 5'7" had "never passed a police entrance examination". However, the court assumed the issue was properly before it and felt that while height was not determinative of fitness to be a policeman, it was significantly related to fitness to be a policeman because:

#Report of the National Advisory Commission on Civil Disorders.

> "policemen of average height may not be more effective than a short one in persuading children, drunks, rioters and obstreperous persons to obey promptly, he may not be physically stronger, and he may not even look more impressive in a police parade." (supra, page 11)

Regarding the challenge to the swimming ability requirement, the District Court held:

> "Ability to swim at least 100 yards has a demonstrable relation to general fitness, to physical courage, and to effectiveness in certain types of emergency rescue." [Therefore] "...a 100 yard swim test has a significant relation to job performance by policemen even if in the particular community where the job is to be performed there is little water..."

The court viewed the written examination as the principal grievance of the plaintiffs. The court found the tests were 100 multiple choice questions, general intelligence type with minimum passing grades of 70% arbitrarily set. They were prepared by persons without any academic or other training with respect to test design or police selection and no attempt was made to relate the questions to an occupational analysis of a policeman's job or to the successful performance of that job or to training programs for that job. There was no evidence of advance validation for the tests, nor was any later attempt made to prove by empirical validation that the tests had predictive validity. (supra, pages 12-14)

Since the evidence disclosed that only 25% of black candidates and only 10% of Spanish surnamed candidates passed while 65% of the others passed, the court concluded that the tests in question "were not rationally or empirically significantly related to the capacity of applicants to be trained for, or to perform a policeman's job". (supra, page 16) The Court further found that the examinations were discriminatory against minorities which do not share the prevailing white culture and hence deprived plaintiffs of equal protection of the laws. (supra, page 17)

The relief ordered included enjoining further use of old examinations lists, conducting any future police entrance examinations which are not significantly related to a policeman's job or which discriminate against any group. Also the Civil Service Commission was directed to notify each person who took a police entrance examination in the previous three years that he was eligible to take another special examination being given to redress for past discriminatory practices. (supra, p.20)

The approach taken by the Massachusetts District Court in Castro v. Beecher is not typical of those used in the great majority of fair employment cases. The judge assumed the relevance of many of the requirements without resorting to empirical data. Also, in a memorandum filed on November 18, 1971, the court said that minority groups are not entitled to a priority or quota system so that the composition of the force will reflect the population of the city. (U.S.Dist. Ct., Mass. 70 Civil 1220 W - Memorandum, November 19, 1971).

The cases discussed can be summarized in the following manner:

1) There is a Federal forum available to persons, as individuals or as members of a representative class, for redress of racial discrimination in hiring by municipal and state governmental agencies, including police departments.

2) Under Federal law where discrimination is shown, the intent of the employer is irrelevant, i.e., it is the result of the employer's act and not his motivation that is important.

3) Employer practices and procedures, although apparently neutral on their face, if they result in discrimination or have a "discriminatory impact" on employment opportunities of minorities, they may be the basis of a finding of discrimination in employment.

4) Where tests are used to select or eliminate candidates, if they significantly exclude more of one ethnic group than another, the employer must show that the selection devices employed are necessary to and do select the candidates most qualified for the position.

5) The Federal courts will consider statistical data and population figures to assess the relative success of minority candidates for civil service positions.

6) Empirical data to establish the validity, i.e., ability to successfully predict the persons best suited for the job, of the selection procedures must be shown if the practice is to withstand court scrutiny.

7) Where discrimination is shown the Federal court has wide discretion in choosing a corrective remedy including, but not limited to, the following:

a) grant injunctions against the offending practices,
b) enjoin application of local laws and rules,
c) order revised selection procedures,
d) order retesting of unsuccessful applicants after appropriate notice, or
e) order hiring of minorities on an alternating rati:

The last remedy of requiring hiring on a ratio or "quota" system has not as of yet been sanctioned by the U.S. Supreme Court. It nevertheless represents a pragmatic approach to provide an effective corrective remedy in the situation where it has been established that an employing agency practiced discrimination over a long period of time. To merely order discontinuance of the offending practice will give the plaintiffs a fresh start but would do nothing to correct for the past abuses. Given the relatively slow attrition rates in municipal employment, it would take many years for the previously discriminated group to catch up. Such a limited order does nothing to correct for past discrimination. Ordering an agency to hire qualified members of a minority on a ratio basis does provide for quickly bringing a minority employment in the offending agency up to the level it would presumably be if no discrimination had been practiced. Of course, it can be argued that this is the practice of unconstitutional discrimination in reverse, but the situation is one which cannot be resolved without some form of discrimination. The Federal Court and ultimately the Supreme Court must decide whether it is proper to limit the remedy available to a class of persons who can prove they suffered discrimination over a long period of time for the sake of preserving the majority class' inchoate rights to seek future employment. I believe that the ratio type remedy is no less destructive of the constitutional rights of the majority than application of a prospective only remedy would be to the constitutional rights of the minority, to be restored to equality. The latter remedy should be granted where it appears that the discrimination was of long duration.[1]

1. Recently a Federal District Court in Alabama found that the Alabama Dept. of Public Safety violated the 14th Amendment by engaging in a blatant and continuous pattern and practice of discrimination as evidenced by the fact there had never been a black state trooper in the 37 year history of the patrol. Rather than order new tests or testing procedures which would take several years to implement, the court merely enjoined the defendants from failing to hire and-permanently employ one negro trooper for each white trooper until approximately 25% of the Alabama state trooper force is comprised of Negroes. The court merely stated "It shall be the responsibility of the Dept. of Public Safety and the Personnel Dept. to find and hire the necessary qualified black troopers." See Paradise v. Allen, U.S. District Court, Middle District of Alabama, Civil Action 3561-N, February 10, 1972

PART II

The Police Department Selection Process

Article 5, Section 6 of the New York State Constitution requires that civil service appointments be made on merit and fitness ascertained as far as practicable by competitive examination. Section 50 of the New York Civil Service Law provides that the merit and fitness of applicants for positions in the competitive class must be ascertained by examination prescribed by the State Civil Service Department or municipal commission having jurisdiction. Section 52 of the Civil Service law requires promotion to be based on merit and fitness as determined by examination . Section 95 of the Civil Service Law provides that:

> "no officer or officers having the power of appointment or employment shall appoint or select any person for appointment, employment, promotion or reinstatement except in accordance with the provisions of this chapter and the rules and regulations established thereunder".

Chapter 35 of the New York City Charter creates the New York City Civil Service Commission and the office of Director of Personnel. The Civil Service Commission in New York City pursuant to authority granted by the New York State Constitution and the New York Civil Service Law has established the Civil Service Rules and Regulations of the City of New York.

The following rules or parts thereof are pertinent to this discussion:

> Rule 3.4.5 - "The merit and fitness of applicants for the positions which are classified in the competitive class [including police] shall be ascertained by such examination as may be prescribed by the Director".
>
> Rule 4.7.2 - "Appointment or promotions from an eligible list to a position in the competitive class shall be made by the selection of one of the three persons certified by the Director as standing highest on such list who are qualified and willing to accept such appointment".
>
> Rule 5.3.1 - "...vacancies in positions in the competitive class shall be filled, so far as practicable, by promotion from among persons holding competitive class positions in a lower grade in the department in which the vacancy exists..."

Rule 5.3.2 - "Promotion shall be based on merit and fitness as determined by examination..."

To be eligible for appointment to the Police Department a candidate must possess the following qualifications or attribut

1) Be citizens between ages of 21 and 29 years,. (adjustment for time in military service is made)
2) live in New York City or adjacent 5 counties on day of appointment,
3) 5'7" minimum height,
4) have 20/30 vision,
5) possess good character,
6) pass qualifying medical examination,
7) pass qualifying physical examination,
8) have a high school diploma or equivalency diploma,
9) possess a valid New York State driver's license, and
10) pass a written competitive examination.

All of the above qualifications as well as the applicable laws and rules are neutral on their face. Nevertheless, this department is 90.2% white despite extensive efforts to channel more of the city's 21% black and 21% Hispanic population into the recruitment process.[1] In fact, in recent years it has been estimated that as many as 33% of those who take the qualifying examination are minority group members.[2] However, the number of minority group members who emerge at the end of the selection process with appointments has never approached the percentage. The following chart indicates the percentage of black and Puerto Rican appointments out of the total appointments for the years 1964 through 1970.

YEAR	PERCENT BLACK	PERCENT PUERTO RICAN	PERCENT MINORITY	TOTAL APPOINTMENTS
1964	4.3 %	1 %	5.3 %	1396
1965	3.4	.8	4.2	2001
1966	3.7	1.2	4.9	2156
1967	1.9	.35	2.2	3144
1968	7.2	3	10.2	4279
1969	17	6	23	2745
1970	7	5	12	645

Source: Comprehensive Personnel Policy for the New York City Police Department, report of the Personnel Bureau, October, 1971.

1. Rand Report, May 1971, page 36 (Minority Recruiting - The New York City Police Department) Annual expenditure of $150,000 by this department for 5 mobile recruiting teams.

2. Ibid, page 55

What happened to the 30% minority aspirants to reduce the successful number to as little as 2.2% of 3144 appointees in 1967? In looking for evidence to suggest an answer or answers to the above question, we should remember that if we can identify a stage or stages where significantly greater numbers of black and Hispanic candidates are excluded or drop-out, in order to justify continuation of that practice, we must be prepared to justify its relevancy or necessity (validity). If we cannot do either we must be prepared to find an alternative practice that has validity or one that does not have a discriminatory impact.

At this point it should be pointed out that New York City is not alone in having a police force which does not reflect the racial composition of its citizens. As the following chart indicates this is the situation in all the big cities:

City	Black Population	Black Police
Atlanta	51.3%	10%
Chicago	33	16.2
Cleveland	40	7
Dallas	25	2
Detroit	45	13
Los Angeles	17.9	15
Miami	22.7	11
Minneapolis	4	1
Newark	80	14
New York	31	8.5
Oakland	40	6.5
Phoenix	5	2
St. Louis	41	14.8
Washington	70	37

Source: Newsweek, "The Black Cop: A Man Caught in the Middle" August 16, 1971, page 20

If records and other data were available to indicate the race of the applicant or candidate from the time he or she took the entrance examination, it would be fairly easy to pinpoint the stage or stages at which Negroes and Hispanic persons are eliminated. Unfortunately, this type of data is not presently available*. Fortunately, there is sufficient data available to identify some of the problem spots.

Although it has been estimated by head counts that over 1/3 of those taking the entrance examinations for patrolman are black or Puerto Rican, there is no data to determine how

*It should be in the future as it is no longer illegal to keep such information if used for study purposes.

minority candidates do on the examination compared with white candidates. However, since it is widely recognized that minority groups members are more likely to belong to a lower socio-economi level and have received inferior educations than whites, it is safe to assume that blacks and Puerto Ricans (with additional language barrier) do not fare as well on the written examination. This, of course, under the doctrine developed in Griggs v. Duke Power Company, ____ U.S. ____, 28 L.Ed. 2d 158, 91 S.Ct., March 8, 1971, would not be illegal discrimination if the Department of Personnel could demonstrate that the entrance examination has predictive validity. In an attempt to learn if data to establish validity of the police entrance examination existed, I contacted Mr. Solomon Weiner of the Department of Personnel, Bureau of Examinations. At a meeting with Mr. P. Seigal of Mr. Weiner's office, I was informed that there is no data available to establish, one way or the other, that the entrance examination has predictive validity. Information of this type would be necessary to defend any challenge to the examination itself.

For the present, it appears safe to assume that the requirement that all appointees to the position of Patrolman have a high school diploma or equivalency certificate could withstand challenge even though it too would most likely exclude blacks and Puerto Ricans at a greater rate than whites. The only case found that raised a challenge to that requirement for appointment to a police department was Castro v. Beecher, U.S. Dist. Court, Mass, 70 Civil 1220 W, Nov. 17, 1971. The District Court found without much discussion that a high school diploma was related to successful job performance.

However, it has been recognized by many that college educations is a desirable minimum for police officers and it appears likely that some sort of college requirement will be established in the future for this department. Despite open enrollmant in the City University of New York, college education is not available to Negroes and Puerto Ricans on the same basis as for whites. Therefore, a college requirement would probably have a discriminatory impact on minorities. To justify this impact, it would be necessary to show empirically that college training was job related to police work. This may be very difficult, if not impossible, in view of the strong tradition, considered erroneous by many, that police work is more physical than mental.

There was no data available with which to accurately assess the impact such requirements as 20/30 eyesight, possessing a driver's license and having minimum height of 5'7" could have on minority candidates. Suffice to say, these requirements would also have to be justified if it could be shown that, for instance, blacks are more likely to have less than 20/30 eyesight. The requirement to have a driver's license can be a bar

to this city's poorer residents who do not own cars. It is generally assumed that the minimum height requirement is a problem for many would-be Puerto Rican candidates. This height requirement was assumed in the Castro case to be job related but the approach was not empirical and a different result would not be surprising if evidence was presented to show that a large percentage of persons of Hispanic origin were excluded by it.

Passing the initial patrolman examination is just the first step in a process lasting many months to appointment. Fewer than 1/3 of the candidates who pass the written examination succeed in completing all the steps required to become a probationary patrolman.[1] Over 1/2 of the candidates who pass the examination do not continue to the point where they submit a completed personal history questionaire (Form P.A. 15).[2] On the average, the recruitment process lasts 17 months from the time a candidate takes the written examination to final appointment.[3]

One area where one might expect to find adverse impact on minorities is during the character investigation. It would not surprise many persons to find bigotry and racial discrimination at this stage where subjective considerations enter the process. In the notice of examination the attribute of good character is defined as follows:

> "Proof of good character will be an absolute prerequisite to appointment. The following are among the factors which would ordinarily be cause for disqualification: a) conviction of a misdemeanor or an offense, the nature of which indicates lack of good moral character or disposition toward violence or disorder; b) repeated conviction of of an offense, where such convictions indicate a disrespect for the law; c) repeated discharge from employment where such discharge indicates poor performance or inability to adjust to discipline; d) addiction to narcotics or excessive use of alcoholic beverages; e) discharge from the Armed Forces other than the standard honorable discharge. In accordance with the provisions of the Administrative Code, persons convicted of a felony are not eligible for positions in the uniformed forces of the Police Department. In addition, the rules of the City Civil Service Commission provide that no person convicted of petit larceny, or who has been dishonorably discharged from the Armed Forces, shall be examined, certified or appointed as a patrolman".

1. Minority Recruiting in the New York City Police Department, Rand Report, May 1971, page XV
2. Ibid.
3. Ibid.

The personal character investigation is entirely under the jurisdiction of the Police Department. In the Rand study, Minority Recruiting in the New York City Police Department, May 1971, this phase of the recruitment process was closely scrutinized. The Rand study concluded that there was no significant difference among blacks, whites, and Puerto Ricans in the proportions appointed or rejected during the personal character investigations by the Police Department.[1] Rather, the report stated, the evidence suggested that the underrepresentation of minority group members was due to a combination of factors operating prior to the time the police initiate the character investigations.[2]

What might these other factors be? For one examination analyzed by the Rand Corporation, it was found that 2,939 applicants passed. Of those, 648 or 22% did not appear for the medical/physical examination. Another 20.3% of the 2,939 or 597 failed the medical/physical examination. The remaining 1,694 applicants were given P.A. 15 forms to complete. Of this number 1,394 P.A. 15's were processed. Three hundred applicants failed to submit completed P.A. 15 forms. The first stage at which the race of the candidate can be positively identified is when the completed P.A. 15 is submitted and the character investigation commences. We have already indicated that Rand found no evidence of racial discrimination in the investigation stage. By comparing candidates with Hispanic surnames to all other candidates Rand was able to conclude that the attrition pattern of Puerto Ricans who pass the police examination did not differ appreciably from that of their white counterparts.[3] There was no convenient procedure for the Rand people to compute the attrition rate of blacks who pass the examination up to the time a completed P.A. 15 was submitted. However, Rand estimated that 15% or 441 of those who took the examination and passed were black. It was known that only 178 black candidates were investigated. Therefore, Rand concluded that nearly 60% of the black candidates drop out or are rejected (medical/physical examination) before the police department has a chance to undertake character investigations.[4] Rand also found that most of the attrition prior to processing P.A. 15 forms is the result of the candidates apparent lack of motivation to act during the lengthy process of recruitment and not due to rejection by the Department of Personnel or Police Department.[5]

Does this attrition have a discriminatory impact on blacks? Rand found that overall attrition prior to submitting

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1. Ibid, page 6
2. Ibid, page 60
3. Rand study, page 53
4. Rand study, page 55
5. Ibid, page 50

completed P.A. 15's was 52.5%. Rand's admittedly extrapolated estimate of black attrition for the same period was 60%. The difference in the two rates (7.5%) is not so great considering the means by which it was arrived at that it can be concluded that blacks who pass the written examination are more likely to drop out of the selection process than their white or Puerto Rican counterparts. For all groups the attrition rate is over 50%.

One conclusion that can be drawn from the data presented above is that minorities represent 30% of those who take the examination but represent a much smaller percentage of those who pass it. The written examination appears to discriminate the most against minority group members who aspire to be policemen.

Of course, there may be a more subtle influence at work prior to the examination-which keeps qualified minority group members from taking it. Factors such as a minority community attitude against police work, feelings that they would not be welcome on the force, misunderstanding about qualifying requirements may have further discriminatory impact on minorities. To the extent that these attitudes have been caused or fostered bythe past actions of the white community, they are subject to corrective orders by Federal courts, including a directive to publicize new examinations to minorities. (See generally v. Gallagher, 3 C.C.H. Empl. Prac. Dec. Section 8205 (D. March 9, 1971), Castro v. Beecher, supra)

The police entrance examination is the major stumbling block for minority group members who want to be police officers. Of those who make it past this barrier and receive appointments, how have they fared as a group in attaining the relatively few rankingpositions in the department?

This department was 31,017 strong in November 1971. It had 2160 blacks and 699 Hispanic officers. This represented 7% and 2.2% of the force respectively. The following chart indicates the scalar positions held by black and Hispanic (primarily Puerto Rican) officers in the New York City Police Department.

RANK	BLACK	HISPANIC	OTHER	TOTAL
Above Captain	5	0	177	182
Captain	2	0	317	319
Lieutenant	22	5	1054	1081
Sergeant	96	16	2253	2365

Source: Comprehensive Personnel Policy for the New York City Police Department, report of the Personnel Bureau, October 1971

Blacks represent only about 3% of the 3,947 ranking officers although they represent about 7% of the total force. Hispanic officers account for a mere .53% of the superior ranks in contrast to their 2.2% representation in the total force. This is significant underrepresentation of minority group members in the superior officer ranks. In view of the discriminatory impact of the entrance examination, it is reasonable to suspect that the promotion examination might be a similar impediment to blacks and Hispanics. In order to test this hypothesis fully, it is necessary to compare the relative performance of each group on promotion examinations. Of course, records of the performance of black and Hispanic officers on these examinations, just as with the initial patrolman's examination, have not been kept. Fortunately, since we are dealing with identifiable members of the department, it is possible to compile this data by examining personal files of members whose names appear on certified promotion lists. This is a laborious process requiring manual checking of thousands of personal folders. The Personnel Research Unit of this department was able to compile the following racial breakdown of the last two (1966 and 1969) Sergeant's examinations:

1966 Sergeant's Examination#

	Total in Department (Patrolmen)	Percent of Total %	Total Eligible	Percentage Eligible %	Took Exam	Percent Eligible Taking Exam %	Passed	Percentage passed %	Promoted
Black	1067	3.9	733	68.7	637	86.9	100	15.7	[illegible]
Hispanic	23[illegible]	.86	205	86.9	185	90.2	19	10.3	[illegible]
Other	26012	95.2	21880	84.1	16858	77.0	2887	17.1	16[illegible]
TOTAL	27315		22318	(83.2)	17680	(77.5)	3006	(17.0)	17[illegible]

Score of 75 was passing mark

1969 Sergeant's Examination*

	Total in Dept. (Patrolmen)	Percent of Total %	Total Eligible	Percent Eligible %	Took Exam	Percent Eligible Taking Exam	Passed	Percent Passed %
Black	1834	6.6	1161	63.3	1068	92.0	14	1.3
Hispanic	560	2.4	284	51.0	251	81.4	5	2.0
Other	24943	91.0	23013	92.3	21235	92.3	705	3.3
TOTAL	27337		24458	(82.2)	22554		724	3.2

* passing mark was 600th rank with 123 ties
** the entire list is expected to be promoted by 3/31/72

Source: Personnel Research Unit, Report of December 1, 1971

The data indicates that in 1966 and again in 1969, Black and Hispanic patrolmen passed the promotion examinations at a slightly lower rate than their white collegues. For the 1969 examination Hispanic officers had the lowest passing rate; for the 1966 test black officers had the lowest passing rate. The format of the test changed from 1966 to 1969 with the establishment of a cut-off mark rather than a passing score. This did not seem to affect any one group's performance more than the others. However, it is difficult to conclude from the above figures that the promotion examinations have a discriminatory impact on minority group patrolmen. The differences in passing rates are close enough that the difference may not be significant. This is an area that needs further study.

An interesting fact disclosed by the above chart points up an obstacle which affects minority group members who have been appointed in recent years. In 1969 only 63.3% of the black patrolmen and 51% of the Hispanic patrolmen were eligible to take the examination compared with 92.3% eligibility of white patrolmen. Those ineligible were all men with less than two years on the force. The requirement that a patrolman have at least two years in the department before he can take the Sergeant examination plainly and significantly adversely affects the minority group members. Given the lengthy delays experienced in establishing promotion lists, there seems to be little justification for requiring two years minimum seniority to take the Sergeant's examination.

A comparison of the relative performance of blacks and Hispanic officers promoted to positions not requiring civil

service certification provides further insight to the effect the civil service process has on the career aspirations of this department's minority group members.

The following chart provides a racial breakdown of the detective ranks:

	Total Det. 3rd	Percent of Total	Total Det. 2nd	Percent of Total	Total Det. 1st	Percent of Total	Total Det.	Total [illegible]
Black	188	11.0	63	8.5	24	10.0	273	[illegible]
Hispanic	65	3.9	21	2.8	11	4.6	97	[illegible]
Other	1428	85.1	661	88.7	237	85.4	2326	[illegible]
TOTAL	1679		745		272		2696	

Source: Appendix D - Report of Personnel Bureau, October 1971

The above chart reveals that the representation of black and Hispanic officers in all the detective ranks exceeds their percentage representation in the force as a whole. This is in marked contrast to the other groups percentage representation in the classified positions Sergeant and above.

The following chart reveals the relative success of black and Hispanic patrolmen in being promoted to detective in comparison to all other patrolmen who were serving as detectives in the fall of 1971:

	Patrolmen/ Detectives Combined	Detective	Percentage Reaching Det. Rank
Black	1992	273	13.7%
Hispanic	581	97	16.7%
Others	24208	2326	9.6%
TOTAL	26781	2696	10.0%

These figures show that black and Hispanic patrolmen have demonstrated far greater ability in attaining detective promotions than have white patrolmen. This success on the non-civil service career ladder further highlights the minority officers relative lack of success in climbing the civil service ladder. What possible factors may cause the poor performance in the classified positions?

No doubt, as previously mentioned, a major factor is the seniority requirement (two years) before an officer is eligible to take his first Sergeant's examination. In the last several years, minority representation in the department has been increasing and therefore minority group patrolmen have,

and will continue to have, as a group, less seniority. Another factor, also previously alluded to, may be that the promotion examinations themselves have a discriminatory impact on minorities. These examinations have not been validated and, as with the entrance examinations, if they in fact discriminated against minorities, and are challenged, the Federal Court will enjoin their continued use. My investigation is inconclusive as to whether police department promotion examinations discriminate against minorities.

In 1969, a black police Lieutenant sought to enjoin a promotional examination for Captain on the ground that a previous test had contained grammar questions, and was of a type that minority groups do badly on and that such questions were not particularly relevant to the duties of the police captain.[1] The State Division of Human Rights issued a probable cause order. Subsequently, the Lieutenant retired from the department without finally prosecuting his action. This issue is likely to be raised again in New York City. Thus far the only Federal case to raise the issue within the context of a police promotion examination was in Alabama.

In Allen v. City of Mobile, D.C.Ala. 4 E.P. . 7582, Dist. Ala. Civil No. 5409-69P, use of a written promotion test for sergeant that emphasized verbal skills and may have had an adverse impact on minorities was found to be permissible because the questions bore a rational relationship to the performance of police work at the supervisory level.

Another possible factor worth mentioning is related to the fact that there are relatively greater numbers of minority group detectives. A first grade detective's top salary in 1971 was $16, 425, for second grade it was $14,235 and for third grade it was $12,593. For the same period, the top money for a Sergeant was $14,235. The "promotion" from first grade detective to Sergeant would result in a salary cut of over $2000. A promotion to Sergeant from second grade detective means no raise in pay. There is less incentive to go from the detective ranks to the classified ranks because in many cases it results in loss of pay in addition to the loss of a position accorded much prestige in this department. Because there are relatively more black and Hispanic officers in the detective ranks, the salary scale and prestige of the position may be limiting the career potential of these officers more so than other members of the force. They would be less likely to study for, or seek promotion to Sergeant as they can make as much as $17,425 (same as top pay for a Lieutenant) without passing a promotion examination. However, there is no way to reach Captain ($22,289) and above without passing the Sergeant's examination.

1. Harding v. New York City Department of Personnel and New York City Civil Service Commission, State Div. of Human Rights Case, #1 n-c-190-69 (April 9, 1969)

Seniority is a factor to be considered for its effect on the final mark and hence positions on the list of officers who have passed a promotion examination. If a candidate passes the written test, his relative ranking on the eligibility list is determined by weighting the test score (50% for Lieutenant and Captain and 60% for Sergeant examinations) and weighting seniority 40% or 50% depending on the examination in question. It is the combined weighted scores for the test and seniority that determine the candidate's standing on the eligible list.

Seniority contributes a maximum of 15 points to be added to a 75 point "performance" constant awarded to all persons eligible for promotion. A candidate receives two points for each of the first five years in rank and one point for each of the next five. The highest score for seniority and performance is 90. This score weighted at either 40% (Sergeant's examination) or 50% (Lieutenant and Captain's examinations) is combined with the written mark to produce a final mark which accounts for the candidate's position on the list of eligibles. This system of according a score for seniority has the effect of lowering the relative position on the final test of the men with the least seniority. Given the increased appointment of minority group members in recent years, they as a group would stand to lose ground in relation to white officers who as a group have more seniority.

Awards or departmental recognition is also a part of the performance and seniority component for promotion. Candidates may receive up to 10 points for departmental awards for deeds of bravery, good police work or firearms proficiency. The amount of credit varies from three points for winning the "Medal of Honor" to 1/4 point for "Excellent Police Duty". These awards are given primarily to officers who effect other than routine arrests. A superior officer or the officer himself may initiate the request. Investigation of the deed and recommendation of the type of award is made at the division level. Consequently, the standards applied vary from command to command. Traditionally, unless a superior officer takes the initiative, the streetwise and generally more senior officer will know how to properly assess his accomplishment and seek recognition. The departmental recognition system is not uniform and gives an unfair advantage to senior officers and detectives. In addition, the system of rewarding valorous acts with promotion credit does not appear to be demonstrably job-related to the supervisory or administrative ranks.

In the future there is a strong likelihood that the performance points for promotion will be replaced by some sort of evaluation system where officers will receive varying credit for promotion on the basis of past evaluations. Such a system has been proposed from the premise that "demonstrated excellence in the lower ranks is an important factor in identifying those

men and women who will function most efficiently as effective supervisors in the next higher rank".[1] This premise may or may not be true depending upon the similarity of the skills, etc., of the individual's present position and the higher rank. Any evaluation procedure which is developed must be designed with sufficient checks and balances so that minority group members are not discriminated against. If discriminatory impact does result, and the procedure was challenged, empirical data would be required to establish the predictive validity of such a system. In practice, however, experts who have studied performance evaluation systems used by other police departments, have found that performance evaluations contribute little to the overall promotion score because of the small variance in the ratings, i.e., virtually everyone is judged to be "above average".[2]

The recruitment and promotion practices for the civil service positions in the Police Department, insofar as they have apparently, if not actually discriminated against blacks and Hispanics may be summarized in the following manner:

New York City Police Department recruitment and promotion procedures, particularly the written examinations, are vulnerable to litigation charging discrimination against blacks and Hispanics. This department and the Department of Personnel will be hard pressed to show job-relatedness, relevance and predictive validity of the procedures now being used to select patrolmen and superior officers.

From conversations with persons engaged in fair employment litigation, I have gathered that such a suit charging the Police Department and theDepartment of Personnel with discrimination against Negroes and Hispanic officers is imminent and probably unavoidable. Such a suit, and I hope this point has been made obvious by this report, will have a good chance of success. The result may be a court order which will involve the courts with the administration of the Police Department for many years. Such involvement may entail a complete reversal of current plans to upgrade the educational background of police officers as well as many changes in police administration including"community control" and "decentralization".

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1. Report of Chief of Personnel - October 12, 1971, Ch.Tel. # 1818

2. Study report by Education Testing Service, "Procedures in New York City for Promoting Police Officers to Sergeant, Lieutenant and Captain", June 1970, P. P. VII - 7

PART III

RECOMMENDATIONS

I will not indulge in fantasy and suggest to the reader that any or all of a long list of pallative remedies, if implemented, will save the day. In this class I put the following possible courses of action:

1) Develop a written examination which has validity.

This remedy is not practical for the following reasons:

a. It would take too long and success is not assured.
b. If successful, the test may still screen out blacks and Hispanic persons and therefore not correct the racial imbalance of the Department.
c. Use of a valid test would not correct for past discrimination.

2) Develop a written examination which will permit blacks and Hispanics to pass at the same rate as whites.

This examination need not be a valid predicter of future performance but so what; who would complain?* However, this type of test could be developed no more quickly than the first test and it too, would not correct for past discrimination.

3) Do the best you can in the time available to develop either Test #1 or Test #2; recruit heavily in the "Target" areas and hope for the best.

This is the course of action most attractive to the bureaucracy. It can be accomplished with a minimum of effort. It too, is too little, too late.

4) Merge the Housing Authority Police Department with the Transit Authority Police Department and the New York City Police Department.

This course of action would result in a dramatic change in the racial composition of this department. The Housing and Transit Police Departments both have a higher percentage of black and Hispanic officers. Of course, this itself would not result in the new appointment of one black or one Puerto Rican and there is a distinct possibility that both these groups would not be fooled by such a tactic.

* Except some civil service groups who would view this as yet another lowering of the standards in favor of the minorities.

5) Remove the disincentive to study for promotion that First and Second Grade Detectives experience by providing that upon promotion to Sergeant Detectives would be paid at a rate at least equal to their former pay.

This would encourage the black and Hispanic patrolmen who have been promoted to detective in proportionately greater numbers than white patrolmen, to re-enter the civil service mainstream. However equitable this course of action would be, it would not result in any dramatic increase in black or Hispanic Sergeants because it would have no effect on the gross under-representation of blacks and Hispanics in the patrolman rank.

All of the above suggestions would result in improved opportunity for entrance into and promotion within the Police Department for minority group members. A strong public relations campaign to let minorities know the Police Department is interested in them is also a must. Translation of a regular Patrolman's examination into Spanish with the addition of a qualifying oral or written English part, as has been successfully done in Philadelphia and Newark, would eliminate the disadvantage experienced by Puerto Ricans for whom English may be a second language. This can also be accomplished with a minimum of effort.

I am convinced that a program combining one or more of the above suggestions will be attempted in New York City. I don't think such a plan will have much acceptance by the minority community or the courts, or any real chance of success, except over a long period of years. What is needed is an action plan to change the Police Department to quickly reflect the racial composition of New York City and at the same time upgrade the educational background of the force as a whole.

It has frequently been stated that any attempt to recruit more black and Hispanic police officers and to raise educational requirements of police officers in general at the same time is impossible. There is no doubt that minority groups have not had the educational opportunities of the white majority. To require all new police officers to have some level of college training would exclude from the eligible population many more blacks and Hispanics than whites. At the same time, very few police administrators will argue against the need to professionalize police services with college trained personnel.

Thus, I recommend the following:

1) Restrict eligibility for appointment to patrolmen to persons who have completed one or two years of college at the time of appointment.

2) Establish recruitment contacts at colleges where there is the highest percentage enrollment of black and Hispanic students.

3) Establish eligible lists which will admittedly have fewer blacks and Hispanics on them.

4) The Police Commissioner and Mayor of New York City should immediately initiate a federal action pursuant to 284 U.S.C. 2201 and 42 U.S.C. 1983, for a Declaratory Judgment establishing that current selection procedures discriminate against Negroes and Puerto Ricans and to recognize that the selection process has not been validated. The PoliceCommissioner should further seek a judgment declaring that he may appoint one black and one Hispanic for each one white appointed until the black and Hispanic representation in the Police Department reflects the city population spectrum. Such a judgment would have the same effect as a judgment, as in Carter v. Gallagher; (U.S.Court of Appeals, 8th Circuit, No. 71-1181, January 7, 1972), which enjoined the application of local law and rules.

5) Pursuant to the judgment obtained, the Police Commissioner can then make appointments in accordance with the suggested alternating ratio to fill the estimated 1000 to 2000 vacancies which occur each year. In five years as many as 6600 black and Hispanic appointments could be made, and the police force would have about 1/3 minority group composition.

In the event the course of action I have suggested is not followed, I submit the PoliceDepartment and the Police Commissioner will be sued by minority groups and the Department will lose the suit and may well be ordered to appoint less qualified blacks and Hispanics on an alternating ratio. In the event the Police Commissioner is not successful in obtaining a declaratory judgment along the lines suggested, every effort to recruit more minority group members should be made. However, if a federal court refuse to permit appointments to the department on the basis of an alternating ratio, it is unlikely that, should a class action be brought, another federal court in the same circuit would enjoin appointments from list established in accordance with civil service law and rules.

> "policemen of average height may not be more effective than a short one in persuading children, drunks, rioters and obstreperous persons to obey promptly, he may not be physically stronger, and he may not even look more impressive in a police parade." (supra, page 11)

Regarding the challenge to the swimming ability requirement, the District Court held:

> "Ability to swim at least 100 yards has a demonstrable relation to general fitness, to physical courage, and to effectiveness in certain types of emergency rescue." [Therefore] "...a 100 yard swim test has a significant relation to job performance by policemen even if in the particular community where the job is to be performed there is little water..."

The court viewed the written examination as the principal grievance of the plaintiffs. The court found the tests were 100 multiple choice questions, general intelligence type with minimum passing grades of 70% arbitrarily set. They were prepared by persons without any academic or other training with respect to test design or police selection and no attempt was made to relate the questions to an occupational analysis of a policeman's job or to the successful performance of that job or to training programs for that job. There was no evidence of advance validation for the tests, nor was any later attempt made to prove by empirical validation that the tests had predictive validity. (supra, pages 12-14)

Since the evidence disclosed that only 25% of black candidates and only 10% of Spanish surnamed candidates passed while 65% of the others passed, the court concluded that the tests in question "were not rationally or empirically significantly related to the capacity of applicants to be trained for, or to perform a policeman's job". (supra, page 16) The Court further found that the examinations were discriminatory against minorities which do not share the prevailing white culture and hence deprived plaintiffs of equal protection of the laws. (supra, page 17)

The relief ordered included enjoining further use of old examinations lists, conducting any future police entrance examinations which are not significantly related to a policeman's job or which discriminate against any group. Also the Civil Service Commission was directed to notify each person who took a police entrance examination in the previous three years that he was eligible to take another special examination being given to redress for past discriminatory practices. (supra, p.20)

The approach taken by the Massachusetts District Court in Castro v. Beecher is not typical of those used in the great majority of fair employment cases. The judge assumed the relevancy of many of the requirements without resorting to empirical data. Also, in a memorandum filed on November 18, 1971, the court said that minority groups are not entitled to a priority or quota system so that the composition of the force will reflect the population of the city. (U.S.Dist. Ct., Mass. 70 Civil 1220 W - Memorandum, November 19, 1971).

The cases discussed can be summarized in the following manner:

1) There is a Federal forum available to persons, as individuals or as members of a representative class, for redress of racial discrimination in hiring by municipal and state governmental agencies, including police departments.

2) Under Federal law where discrimination is shown, the intent of the employer is irrelevant, i.e., it is the result of the employer's act and not his motivation that is important.

3) Employer practices and procedures, although apparently neutral on their face, if they result in discrimination or have a "discriminatory impact" on employment opportunities of minorities, they may be the basis of a finding of discrimination in employment.

4) Where tests are used to select or eliminate candidates, if they significantly exclude more of one ethnic group than another, the employer must show that the selection devices employed are necessary to and do select the candidates most qualified for the position.

5) The Federal courts will consider statistical data and population figures to assess the relative success of minority candidates for civil service positions.

6) Empirical data to establish the validity, i.e., ability to successfully predict the persons best suited for the job, of the selection procedures must be shown if the practice is to withstand court scrutiny.

7) Where discrimination is shown the Federal court has wide discretion in choosing a corrective remedy including, but not limited to, the following:

a) grant injunctions against the offending practices,
b) enjoin application of local laws and rules,
c) order revised selection procedures,
d) order retesting of unsuccessful applicants after appropriate notice, or
e) order hiring of minorities on an alternating ratio.

The last remedy of requiring hiring on a ratio or "quota" system has not as of yet been sanctioned by the U.S. Supreme Court. It nevertheless represents a pragmatic approach to provide an effective corrective remedy in the situation where it has been established that an employing agency practiced discrimination over a long period of time. To merely order discontinuance of the offending practice will give the plaintiffs a fresh start but would do nothing to correct for the past abuses. Given the relatively slow attrition rates in municipal employment, it would take many years for the previously discriminated group to catch up. Such a limited order does nothing to correct for past discrimination. Ordering an agency to hire qualified members of a minority on a ratio basis does provide for quickly bringing a minority employment in the offending agency up to the level it would presumably be if no discrimination had been practiced. Of course, it can be argued that this is the practice of unconstitutional discrimination in reverse, but the situation is one which cannot be resolved without some form of discrimination. The Federal Court and ultimately the Supreme Court must decide whether it is proper to limit the remedy available to a class of persons who can prove they suffered discrimination over a long period of time for the sake of preserving the majority class' inchoate rights to seek future employment. I believe that the ratio type remedy is no less destructive of the constitutional rights of the majority than application of a prospective only remedy would be to the constitutional rights of the minority, to be restored to equality. The latter remedy should be granted where it appears that the discrimination was of long duration.[2]

[2]. Recently a Federal District Court in Alabama found that the Alabama Dept. of Public Safety violated the 14th Amendment by engaging in a blatant and continuous pattern and practice of discrimination as evidenced by the fact there had never been a black state trooper in the 37 year history of the patrol. Rather than order new tests or testing procedures which would take several years to implement, the court merely enjoined the defendants from failing to hire and permanently employ one negro trooper for each white trooper until approximately 25% of the Alabama state trooper force is comprised of Negroes. The court merely stated "It shall be the responsibility of the Dept. of Public Safety and the Personnel Dept. to find and hire the necessary qualified black troopers." See Paradise v. Allen, U.S District Court, Middle District of Alabama, Civil Action 3561-N, February 10, 1972

PART II

The Police Department Selection Process

Article 5, Section 6 of the New York State Constitution requires that civil service appointments be made on merit and fitness ascertained as far as practicable by competitive examination. Section 50 of the New York Civil Service Law provides that the merit and fitness of applicants for positions in the competitive class must be ascertained by examination prescribed by the State Civil Service Department or municipal commission having jurisdiction. Section 52 of the Civil Service law requires promotion to be based on merit and fitness as determined by examination . Section 95 of the Civil Service Law provides that:

> "no officer or officers having the power of appointment or employment shall appoint or select any person for appointment, employment, promotion or reinstatement except in accordance with the provisions of this chapter and the rules and regulations established thereunder".

Chapter 35 of the New York City Charter creates the New York City Civil Service Commission and the office of Director of Personnel. The Civil Service Commission in New York City pursuant to authority granted by the New York State Constitution and the New York Civil Service Law has established the Civil Service Rules and Regulations of the City of New York.

The following rules or parts thereof are pertinent to this discussion:

> Rule 3.4.5 - "The merit and fitness of applicants for the positions which are classified in the competitive class [including police] shall be ascertained by such examination as may be prescribed by the Director".
>
> Rule 4.7.2 - "Appointment or promotions from an eligible list to a position in the competitive class shall be made by the selection of one of the three persons certified by the Director as standing highest on such list who are qualified and willing to accept such appointment".
>
> Rule 5.3.1 - "...vacancies in positions in the competitive class shall be filled, so far as practicable, by promotion from among persons holding competitive class positions in a lower grade in the department in which the vacancy exists..."

Rule 5.3.2 - "Promotion shall be based on merit and fitness as determined by examination..."

To be eligible for appointment to the Police Department a candidate must possess the following qualifications or attributes:

1) Be citizens between ages of 21 and 29 years, (adjustment for time in military service is made)
2) live in New York City or adjacent 5 counties on day of appointment,
3) 5'7" minimum height,
4) have 20/30 vision,
5) possess good character,
6) pass qualifying medical examination,
7) pass qualifying physical examination,
8) have a high school diploma or equivalency diploma,
9) possess a valid New York State driver's license, and
10) pass a written competitive examination.

All of the above qualifications as well as the applicable laws and rules are neutral on their face. Nevertheless, this department is 90.2% white despite extensive efforts to channel more of the city's 21% black and 21% Hispanic population into the recruitment process.[15] In fact, in recent years it has been estimated that as many as 33% of those who take the qualifying examination are minority group members.[16] However, the number of minority group members who emerge at the end of the selection process with appointments has never approached that percentage. The following chart indicates the percentage of black and Puerto Rican appointments out of the total appointments for the years 1964 through 1970.

YEAR	PERCENT BLACK	PERCENT PUERTO RICAN	PERCENT MINORITY	TOTAL APPOINTMENTS
1964	4.3 %	1 %	5.3 %	1396
1965	3.4	.8	4.2	2081
1966	3.7	1.2	4.9	2156
1967	1.9	.35	2.2	3144
1968	7.2	3	10.2	4279
1969	17	6	23	2745
1970	7	5	12	645

Source: Comprehensive Personnel Policy for the New York City Police Department, report of the Personnel Bureau, October, 1971.

15 Rand Report, May 1971, page 36 (Minority Recruiting - The New York City Police Department) Annual expenditure of $150,000 by this department for 5 mobile recruiting teams.

16 Ibid, page 55

What happened to the 30% minority aspirants to reduce the successful number to as little as 2.2% of 3144 appointees in 1967? In looking for evidence to suggest an answer or answers to the above question, we should remember that if we can identify a stage or stages where significantly greater numbers of black and Hispanic candidates are excluded or drop-out, in order to justify continuation of that practice, we must be prepared to justify its relevancy or necessity (validity). If we cannot do either we must be prepared to find an alternative practice that has validity or one that does not have a discriminatory impact.

At this point it should be pointed out that New York City is not alone in having a police force which does not reflect the racial composition of its citizens. As the following chart indicates this is the situation in all the big cities:

City	Black Population	Black Police
Atlanta	51.3%	10%
Chicago	33	16.2
Cleveland	40	7
Dallas	25	2
Detroit	45	13
Los Angeles	17.9	15
Miami	22.7	11
Minneapolis	4	1
Newark	80	14
New York	31	8.5
Oakland	40	6.5
Phoenix	5	2
St. Louis	41	14.8
Washington	70	37

Source: Newsweek, "The Black Cop: A Man Caught in the Middle" August 16, 1971, page 20

If records and other data were available to indicate the race of the applicant or candidate from the time he or she took the entrance examination, it would be fairly easy to pinpoint the stage or stages at which Negroes and Hispanic persons are eliminated. Unfortunately, this type of data is not presently available.[14] Fortunately, there is sufficient data available to identify some of the problem spots.

Although it has been estimated by head counts that over 1/3 of those taking the entrance examinations for patrolman are black or Puerto Rican, there is no data to determine how

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[14] It should be in the future as it is no longer illegal to keep such information if used for study purposes.

minority candidates do on the examination compared with white candidates. However, since it is widely recognized that minority groups members are more likely to belong to a lower socio-economic level and have received inferior educations than whites, it is safe to assume that blacks and Puerto Ricans (with additional language barrier) do not fare as well on the written examination. This, of course, under the doctrine developed in Griggs v. Duke Power Company, ____ U.S. ____, 28 L.Ed. 2d 158, 91 S.Ct., March 8, 1971, would not be illegal discrimination if the Department of Personnel could demonstrate that the entrance examination has predictive validity. In an attempt to learn if data to establish validity of the police entrance examination existed, I contacted Mr. Solomon Weiner of the Department of Personnel, Bureau of Examinations. At a meeting with Mr. P. Seigal of Mr. Weiner's office, I was informed that there is no data available to establish, one way or the other, that the entrance examination has predictive validity. Information of this type would be necessary to defend any challenge to the examination itself.

For the present, it appears safe to assume that the requirement that all appointees to the position of Patrolman have a high school diploma or equivalency certificate could withstand challenge even though it too would most likely exclude blacks and Puerto Ricans at a greater rate than whites. The only case found that raised a challenge to that requirement for appointment to a police department was Castro v. Beecher, U.S. Dist. Court, Mass, 70 Civil 1220 W, Nov. 17, 1971. The District Court found without much discussion that a high school diploma was related to successful job performance.

However, it has been recognized by many that college educations is a desirable minimum for police officers and it appears likely that some sort of college requirement will be established in the future for this department. Despite open enrollment in the City University of New York, college education is not available to Negroes and Puerto Ricans on the same basis as for whites. Therefore, a college requirement would probably have a discriminatory impact on minorities. To justify this impact, it would be necessary to show empirically that college training was job related to police work. This may be very difficult, if not impossible, in view of the strong tradition, considered erroneous by many, that police work is more physical than mental.

There was no data available with which to accurately assess the impact such requirements as 20/30 eyesight, possessing a driver's license and having minimum height of 5'7" could have on minority candidates. Suffice to say, these requirements would also have to be justified if it could be shown that, for instance, blacks are more likely to have less than 20/30 eyesight. The requirement to have a driver's license can be a bar

to this city's poorer residents who do not own cars. It is generally assumed that the minimum height requirement is a problem for many would-be Puerto Rican candidates. This height requirement was assumed in the Castro case to be job related but the approach was not empirical and a different result would not be surprising if evidence was presented to show that a large percentage of persons of Hispanic origin were excluded by it.

Passing the initial patrolman examination is just the first step in a process lasting many months to appointment. Fewer than 1/3 of the candidates who pass the written examination succeed in completing all the steps required to become a probationary patrolman.[14] Over 1/2 of the candidates who pass the examination do not continue to the point where they submit a completed personal history questionaire (Form P.A. 15)[15] On the average, the recruitment process lasts 17 months from the time a candidate takes the written examination to final appointment[16]

One area where one might expect to find adverse impact on minorities is during the character investigation. It would not surprise many persons to find bigotry and racial discrimination at this stage where subjective considerations enter the process. In the notice of examination the attribute of good character is defined as follows:

> "Proof of good character will be an absolute prerequisite to appointment. The following are among the factors which would ordinarily be cause for disqualification: a) conviction of a misdemeanor or an offense, the nature of which indicates lack of good moral character or disposition toward violence or disorder; b) repeated conviction of of an offense, where such convictions indicate a disrespect for the law; c) repeated discharge from employment where such discharge indicates poor performance or inability to adjust to discipline; d) addiction to narcotics or excessive use of alcoholic beverages; e) discharge from the Armed Forces other than the standard honorable discharge. In accordance with the provisions of the Administrative Code, persons convicted of a felony are not eligible for positions in the uniformed forces of the Police Department. In addition, the rules of the City Civil Service Commission provide that no person convicted of petit larceny, or who has been dishonorably discharged from the Armed Forces, shall be examined, certified or appointed as a patrolman".

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14. Minority Recruiting in the New York City Police Department, Rand Report, May 1971, page XV
15. Ibid.
16. Ibid.

The personal character investigation is entirely under the jurisdiction of the Police Department. In the Rand study, Minority Recruiting in the New York City Police Department, May 1971, this phase of the recruitment process was closely scrutinized. The Rand study concluded that there was no significant differences among blacks, whites, and Puerto Ricans in the proportions appointed or rejected during the personal character investigations by the Police Department.[19] Rather, the report stated, the evidence suggested that the underrepresentation of minority group members was due to a combination of factors operating prior to the time the police initiate the character investigations.[19]

What might these other factors be? For one examination analyzed by the Rand Corporation, it was found that 2,939 applicants passed. Of those, 648 or 22% did not appear for the medical/physical examination. Another 20.3% of the 2,939 or 597 failed the medical/physical examination. The remaining 1,694 applicants were given P.A. 15 forms to complete. Of this number 1,394 P.A. 15's were processed. Three hundred applicants failed to submit completed P.A. 15 forms. The first stage at which the race of the candidate can be positively identified is when the completed P.A. 15 is submitted and the character investigation commences. We have already indicated that Rand found no evidence of racial discrimination in the investigation stage. By comparing candidates with Hispanic surnames to all other candidates Rand was able to conclude that the attrition pattern of Puerto Ricans who pass the police examination did not differ appreciably from that of their white counterparts.[20] There was no convenient procedure for the Rand people to compute the attrition rate of blacks who pass the examination up to the time a completed P.A. 15 was submitted. However, Rand estimated that 15% or 441 of those who took the examination and passed were black. It was known that only 178 black candidates were investigated. Therefore, Rand concluded that nearly 60% of the black candidates drop out or are rejected (medical/physical examination) before the police department has a chance to undertake character investigations.[21] Rand also found that most of the attrition prior to processing P.A. 15 forms is the result of the candidates apparent lack of motivation to act during the lengthy process of recruitment and not due to rejection by the Department of Personnel of Police Department.[22]

Does this attrition have a discriminatory impact on blacks? Rand found that overall attrition prior to submitting

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1. 18 21 Ibid, page 6
2. 19 22 Ibid, page 60
3. 20 23 Rand study, page 53
4. 21 24 Rand study, page 55
5. 22 25 Ibid, page 50

completed P.A. 15's was 52.5%. Rand's admittedly extrapolated estimate of black attrition for the same period was 60%. The difference in the two rates (7.5%) is not so great considering the means by which it was arrived at that it can be concluded that blacks who pass the written examination are more likely to drop out of the selection process than their white or Puerto Rican counterparts. For all groups the attrition rate is over 50%.

One conclusion that can be drawn from the data presented above is that minorities represent 30% of those who take the examination but represent a much smaller percentage of those who pass it. The written examination appears to discriminate the most against minority group members who aspire to be policemen.

Of course, there may be a more subtle influences at work prior to the examination which keeps qualified minority group members from taking it. Factors such as a minority community attitude against police work, feelings that they would not be welcome on the force, misunderstanding about qualifying requirements may have further discriminatory impact on minorities. To the extent that these attitudes have been caused or fostered bythe past actions of the white community, they are subject to corrective orders by Federal courts, including a directive to publicize new examinations to minorities. (See generally Carter v. Gallagher, 3 C.C.H. Empl. Prac. Dec. Section 8205 (D. Minn., March 9, 1971), Castro v. Beecher, supra)

The police entrance examination is the major stumbling block for minority group members who want to be police officers. Of those who make it past this barrier and receive appointments, how have they fared as a group in attaining the relatively few rankingpositions in the department?

This department was 31,017 strong in November 1971. It had 2160 blacks and 699 Hispanic officers. This represented 7% and 2.2% of the force respectively. The following chart indicates the scalar positions held by black and Hispanic (primarily Puerto Rican) officers in the New York City Police Department.

RANK	BLACK	HISPANIC	OTHER	TOTAL
Above Captain	5	0	177	182
Captain	2	0	317	319
Lieutenant	22	5	1054	1081
Sergeant	96	16	2253	2365

Source: Comprehensive Personnel Policy for the New York City Police Department, report of the Personnel Bureau, October 1971

Blacks represent only about 3% of the 3,947 ranking officers although they represent about 7% of the total force. Hispanic officers account for a mere .53% of the superior ranks in contrast to their 2.2% representation in the total force. This is significant underrepresentation of minority group members in the superior officer ranks. In view of the discriminatory impact of the entrance examination, it is reasonable to suspect that the promotion examination might be a similar impediment to blacks and Hispanics. In order to test this hypothesis fully, it is necessary to compare the relative performance of each group on promotion examinations. Of course, records of the performance of black and Hispanic officers on these examinations, just as with the initial patrolman's examination, have not been kept. Fortunately, since we are dealing with identifiable members of the department, it is possible to compile this data by examining personal files of members whose names appear on certified promotion lists. This is a laborious process requiring manual checking of thousands of personal folders. The Personnel Research Unit of this department was able to compile the following racial breakdown of the last two (1966 and 1969) Sergeant's examinations:

1966 Sergeant's Examination[23]

	Total in Department (Patrolmen)	Percent of Total %	Total Eligible	Percentage Eligible %	Took Exam	Percent Eligible Taking Exam %	Passed	Percentage passed %	Promoted
Black	1067	3.9	733	68.7	637	86.9	100	15.7	56
Hispanic	236	.86	205	86.9	185	90.2	19	10.3	11
Other	26012	95.2	21880	84.1	16858	77.0	2887	17.1	1662
TOTAL	27315		22318	(83.2)	17680	(77.5)	3006	(17.0)	1729

[23] Score of 75 was passing mark

1969 Sergeant's Examination*

	Total in Dept. (Patrolmen)	Percent of Total %	Total Eligible	Percent Eligible %	Took Exam	Percent Eligible Taking Exam %	Passed	Percent Passed %
Black	1834	6.6	1161	63.3	1068	92.0	14	1.3
Hispanic	560	2.4	284	51.0	251	81.4	5	2.0
Other	24943	91.0	23013	92.3	21235	92.3	705	3.3
TOTAL	27337		24458	(82.2)	22554		724	3.2 **

* passing mark was 600th rank with 123 ties
** the entire list is expected to be promoted by 3/31/72

Source: Personnel Research Unit, Report of December 1, 1971

The data indicates that in 1966 and again in 1969, Black and Hispanic patrolmen passed the promotion examinations at a slightly lower rate than their white collegues. For the 1969 examination Hispanic officers had the lowest passing rate; for the 1966 test black officers had the lowest passing rate. The format of the test changed from 1966 to 1969 with the establishment of a cut-off mark rather than a passing score. This did not seem to affect any one group's performance more than the others. However, it is difficult to conclude from the above figures that the promotion examinations have a discriminatory impact on minority group patrolmen. The differences in passing rates are close enough that the difference may not be significant. This is an area that needs further study.

An interesting fact disclosed by the above chart points up an obstacle which affects minority group members who have been appointed in recent years. In 1969 only 63.3% of the black patrolmen and 51% of the Hispanic patrolmen were eligible to take the examination compared with 92.3% eligibility of white patrolmen. Those ineligible were all men with less than two years on the force. The requirement that a patrolman have at least two years in the department before he can take the Sergeant's examination plainly and significantly adversely affects the minority group members. Given the lengthy delays experienced in establishing promotion lists, there seems to be little justification for requiring two years minimum seniority to take the Sergeant's examination.

A comparison of the relative performance of blacks and Hispanic officers promoted to positions not requiring civil

service certification provides further insight to the effect the civil service process has on the career aspirations of this department's minority group members.

The following chart provides a racial breakdown of the detective ranks:

	3rd Det. Total	Percent of Total	2nd Det. Total	Percent of Total	1st Det. Total	Percent of Total	Det. Total	Percent of Total
Black	186	11.0	63	8.5	24	10.0	273	10.2
Hispanic	65	3.9	21	2.8	11	4.6	97	3.6
Other	1428	85.1	661	88.7	237	85.4	2326	86.2
TOTAL	1679		745		272		2696	

Source: Appendix D - Report of Personnel Bureau, October 1971

The above chart reveals that the representation of black and Hispanic officers in all the detective ranks exceeds their percentage representation in the force as a whole. This is in marked contrast to the other groups percentage representation in the classified positions Sergeant and above.

The following chart reveals the relative success of black and Hispanic patrolmen in being promoted to detective in comparison to all other patrolmen who were serving as detectives in the fall of 1971:

	Patrolmen/ Detective Combined	Detective	Percentage Reaching Det. Rank
Black	1992	273	13.7%
Hispanic	581	97	16.7%
Others	24208	2326	9.6%
TOTAL	26781	2695	10.0%

These figures show that black and Hispanic patrolmen have demonstrated far greater ability in attaining detective promotions than have white patrolmen. This success on the non-civil service career ladder further highlights the minority officers relative lack of success in climbing the civil service ladder. What possible factors may cause the poor performance in the classified positions?

No doubt, as previously mentioned, a major factor is the seniority requirement (two years) before an officer is eligible to take his first Sergeant's examination. In the last several years, minority representation in the department has been increasing and therefore minority group patrolmen have,

and will continue to have, as a group, less seniority. Another factor, also previously alluded to, may be that the promotion examinations themselves have a discriminatory impact on minorities. These examinations have not been validated and, as with the entrance examinations, if they in fact discriminated against minorities, and are challenged, the Federal Court will enjoin their continued use. My investigation is inconclusive as to whether police department promotion examinations discriminate against minorities.

In 1969, a black police Lieutenant sought to enjoin a promotional examination for Captain on the ground that a previous test had contained grammar questions, and was of a type that minority groups do badly on and that such questions were not particularly relevant to the duties of the police captain.[27] The State Division of Human Rights issued a probable cause order. Subsequently, the Lieutenant retired from the department without finally prosecuting his action. This issue is likely to be raised again in New York City. Thus far the only Federal case to raise the issue within the context of a police promotion examination was in Alabama.

In Allen v. City of Mobile, D.C.Ala. 4 E.P.D. 7582, Dist. Ala. Civil No. 5409-69P, use of a written promotion test for sergeant that emphasized verbal skills and may have had an adverse impact on minorities was found to be permissible because the questions bore a rational relationship to the performance of police work at the supervisory level.

Another possible factor worth mentionning is related to the fact that there are relatively greater numbers of minority group detectives. A first grade detective's top salary in 1971 was $16, 425, for second grade it was $14,235 and for third grade it was $12,593. For the same period, the top money for a Sergeant was $14,235. The "promotion" from first grade detective to Sergeant would result in a salary cut of over $2000. A promotion to Sergeant from second grade detective means no raise in pay. There is less incentive to go from the detective ranks to the classified ranks because in many cases it results in loss of pay in addition to the loss of a position accorded much prestige in this department. Because there are relatively more black and Hispanic officers in the detective ranks, the salary scale and prestige of the position may be limiting the career potential of these officers more so than other members of the force. They would be less likely to study for, or seek promotion to Sergeant as they can make as much as $16,425 (same as top pay for a Lieutenant) without passing a promotion examination. However, there is no way to reach Captain ($22,289) and above without passing the Sergeant's examination.

27. Harding v. New York City Department of Personnel and New York City Civil Service Commission, State Div. of Human Rights Case, #1 a-c-190-69 (April 9, 1969)

Seniority is a factor to be considered for its effect on the final mark and hence positions on the list of officers who have passed a promotion examination. If a candidate passes the written test, his relative ranking on the eligibility list is determined by weighting the test score (50% for Lieutenant and Captain and 60% for Sergeant examinations) and weighting seniority 40% or 50% depending on the examination in question. It is the combined weighted scores for the test and seniority that determine the candidate's standing on the eligible list.

Seniority contributes a maximum of 15 points to be added to a 75 point "performance" constant awarded to all persons eligible for promotion. A candidate receives two points for each of the first five years in rank and one point for each of the next five. The highest score for seniority and performance is 90. This score weighted at either 40% (Sergeant's examination) or 50% (Lieutenant and Captain's examinations) is combined with the written mark to produce a final mark which accounts for the candidate's position on the list of eligibles. This system of according a score for seniority has the effect of lowering the relative position on the final test of the men with the least seniority. Given the increased appointment of minority group members in recent years, they as a group would stand to lose ground in relation to white officers who as a group have more seniority.

Awards or departmental recognition is also a part of the performance and seniority component for promotion. Candidates may receive up to 10 points for departmental awards for deeds of bravery, good police work or firearms proficiency. The amount of credit varies from three points for winning the "Medal of Honor" to 1/4 point for "Excellent Police Duty". These awards are given primarily to officers who effect other than routine arrests. A superior officer or the officer himself may initiate the request. Investigation of the deed and recommendation of the type of award is made at the division level. Consequently, the standards applied vary from command to command. Traditionally, unless a superior officer takes the initiative, the streetwise and generally more senior officer will know how to properly assess his accomplishment and seek recognition. The departmental recognition system is not uniform and gives an unfair advantage to senior officers and detectives. In addition, the system of rewarding valorous acts with promotion credit does not appear to be demonstrably job-related to the supervisory or administrative ranks.

In the future there is a strong likelihood that the performance points for promotion will be replaced by some sort of evaluation system where officers will receive varying credit for promotion on the basis of past evaluations. Such a system has been proposed from the premise that "demonstrated excellence in the lower ranks is an important factor in identifying those

men and women who will function most efficiantly as effective supervisors in the next higher rank".[25] This premise may or may not be true depending upon the similarity of the skills, etc., of the individual's present position and the higher rank. Any evaluation procedure which is developed must be designed with sufficient checks and balances so that minority group members are not discriminated against. If discriminatory impact does result, and the procedure was challenged, empirical data would be required to establish the predictive validity of such a system. In practice, however, experts who have studied performance evaluation systems used by other police departments, have found that performance evaluations contribute little to the overall promotion score because of the small variance in the ratings, i.e., virtually everyone is judged to be "above average".[26]

The recruitment and promotion practices for the civil service positions in the Police Department, insofar as they have apparently, if not actually discriminated against blacks and Hispanics may be summarized in the following manner:

New York City Police Department recruitment and promotion procedures, particularly the written examinations, are vulnerable to litigation charging discrimination against blacks and Hispanics. This department and the Department of Personnel will be hard pressed to show job-relatedness, relevance and predictive validity of the procedures now being used to select patrolmen and superior officers.

From conversations with persons engaged in fair employment litigation, I have gathered that such a suit charging the Police Department and theDepartment of Personnel with discrimination against Negroes and Hispanic officers is imminent and probably unavoidable. Such a suit, and I hope this point has been made obvious by this report, will have a good chance of success. The result may be a court order which will involve the courts with the administration of the Police Department for many years. Such involvement may entail a complete reversal of current plans to upgrade the educational background of police officers as well as many changes in police administration including"community control" and "decentralization".

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25. Report of Chief of Personnel - October 12, 1971, Ch.Pers # 1818

26. Study report by Education Testing Service, "Procedures Used in New York City for Promoting Police Officers to Sergeant Lieutenant and Captain", June 1970, P. P. VII - 7

PART III

RECOMMENDATIONS

We need ~~Will~~ not indulge in fantasy and suggest to the reader that any or all of a long list of pallative remedies, if implemented, will save the day. In this class I put the following possible courses of action: we may

1) Develop a written examination which has validity.

This remedy is not practical for the following reasons:

a. It would take too long and success is not assured.
b. If successful, the test may still screen out blacks and Hispanics and therefore not correct the racial imbalance of the Department.
c. Use of a valid test would not correct for past discrimination.

2) Develop a written examination which will permit blacks and Hispanics to pass at the same rate as whites.

This examination need not be a valid predicter of future performance but so what; who would complain?* 30 However, this type of test could be developed no more quickly than the first test and it too, would not correct for past discrimination.

3) ~~Do the best you can in the time available to develop either Test #1 or Test #2; recruit heavily in the "Target" areas and hope for the best.~~

This is the course of action most attractive to the bureaucracy. It can be accomplished with a minimum of effort. It too, is too little, too late.

4) Merge the Housing Authority Police Department with the Transit Authority Police Department and the New York City Police Department.

This course of action would result in ~~a dramatic~~ some change in the racial composition of this department. The Housing and Transit Police Departments both have a higher percentage of black and Hispanic officers. Of course, this itself would not result in the new appointment of one black or one Puerto Rican and there is a distinct possibility that both these groups would not be fooled by such a tactic.

30 * Except some civil service groups who would view this as yet another lowering of the standards in favor of the minorities.

5) Remove the disincentive to study for promotion that First and Second Grade Detectives experience by providing that upon promotion to Sergeant Detectives would be paid at a rate at least equal to their former pay.

This would encourage the black and Hispanic patrolmen who have been promoted to detective in proportionatel greater numbers than white patrolmen, to re-enter the civil service mainstream. However equitable this course of action would be, it would not result in any dramatic increase in black or Hispanic Sergeants because it would have no effect on the gross under-representation of blacks and Hispanics in the patrolman rank.

All of the above sugggestions would result in improved opportunity for entrance into and promotion within the Police Department for minority group members. A strong public relations campaign to let minorities know the Police Department is intereste in them is also a must. Translation of a regular Patrolman's examination into Spanish with the addition of a qualifying oral or written English part, as has been successfully done in Philadelphia and Newark, would eliminate the disadvantage experienced by Puerto Ricans for whom English may be a second language. This can also be accomplished with a minimum of effort.

I am convinced that a program combining one or more of th above suggestions will be attempted in New York City. I don't think such a plan will have much acceptance by the minority community or the courts, or any real chance of success, except over a long period of years. What is needed is an action plan to change the Police Department to quickly reflect the racial composition of New York City and at the same time upgrade the educational background of the force as a whole.

It has frequently been stated that any attempt to recruit more black and Hispanic police officers and to raise educational requirements of police officers in general at the same time is impossible. There is no doubt that minority groups have not had the educational opportunities of the white majority. To require all new police officers to have some level of college training would exclude from the eligible population many more blacks and Hispanics than whites. At the same time, very few police administrators will argue against the need to professionalize police services with college trained personnel.

Thus, I recommend the following:

In addition, extra credit should be given to an applicant who has a functional knowledge of Spanish

~~1) Restrict eligibility for appointment to patrolmen to persons who have completed one or two years of college at the time of appointment.~~

~~2) Establish recruitment contacts at colleges where there is the highest percentage enrollment of black and Hispanic students.~~

~~3) Establish eligible lists which will admittedly have fewer blacks and Hispanics on them.~~

1) 4) The Police Commissioner and Mayor of New York City should immediately initiate a federal action pursuant to 284 U.S.C. 2201 and 42 U.S.C. 1983, for a Declaratory Judgment establishing that current selection procedures discriminate against Negroes and Puerto Ricans and to recognize that the selection process has not been validated. The PoliceCommissioner should further seek a judgment declaring that he may appoint one black and one Hispanic for each one white appointed until the black and Hispanic representation in the Police Department reflects the city population spectrum. Such a judgment would have the same effect as a judgment, as in Carter v. Gallagher; (U.S.Court of Appeals, 8th Circuit, No. 71-1181, January 7, 1972), which enjoined the application of local law and rules.

2) 5) Pursuant to the judgment obtained, the Police Commissioner can then make appointments in accordance with the suggested alternating ratio to fill the estimated 1000 to 2000 vacancies which occur each year. In five years as many as 6600 black and Hispanic appointments could be made, and the police force would have about 1/3 minority group composition.

In the event the course of action I have suggested is not followed, I submit the PoliceDepartment and the Police Commissioner will be sued by minority groups and the Department will lose the suit and may well be ordered to appoint less qualified blacks and Hispanics on an alternating ratio. In the event the Police Commissioner is not successful in obtaining a declaratory judgment along the lines suggested, every effort to recruit more minority group members should be made. However, if a federal court refuses to permit appointments to the department on the basis of an alternating ratio, it is unlikely that, should a class action be brought, another federal court in the same circuit would enjoin appointments from list established in accordance with civil service law and rules.

There can be no doubt that the survival of the "inner cities" will depend on the wholehearted involvement of their residents in the solutions to today's critical problems. As long as "inner cities" government and

Crim. Conduct. Allegations. Crim. Det. Dis. Ills. Civ. 3561-N, February 10, 1972

its officers do not represent ~~and~~ these results . . . there will be no such ~~[illegible]~~ commitment. It is incumbent upon all public officials to take necessary steps to effectuate the essential goal.

The factual and legal ~~[illegible]~~ analyses ~~of~~ contained herein clearly demonstrate the unfortunate ~~[illegible]~~ posture of our department and the concern of the Court and society ~~to~~ about similar ~~to~~ situations. The recommendations above ~~[illegible]~~ appear to be the only viable ones at this time if we are to assume our responsibilities as public officials and to be leaders.*

Respectfully submitted,
LUIS M. NEGRON
Deputy Commissioner,
Legal Matters.

JOHN A COSTA,
of Counsel

This posture has been radically altered by the ~~[illegible]~~ apparent filing of a federal lawsuit by the NAACP, ~~and~~ The Puerto Rican Association and The Hispanic Society on or about the date this report was ~~[illegible]~~ [illegible]

March 3, 1972

Respectfully submitted,

Louis M. Weco
Deputy Commissioner
Legal Matters,

JOHN A. COSTA,
Of counsel

the United States, because of race, are likely to live differently than whites, have gone to inferior schools, received less cultural stimulation than whites and to have been excluded for racial reasons from many employment opportunities.

The enactment of Title VII of the Civil Rights Act of 1964, however, marked the beginning of a new interpretive approach to reform employment practices which limited the opportunities for equal employment of minorities where there was no apparent intent to discriminate.

Effective July 2, 1965, it became an unlawful employment practice for an employer:

> "(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex or national origin;
>
> or
>
> (2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin."
> (Title 42, Section 2000e (21U.S.C.A. "Unlawful Employment Practices -Employer Practices".)

The following section limits the scope of "unlawful employment practice" to permit use of a merit system and ability tests.

> "Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of race, color, religion, sex, or national origin, nor shall it be an unlawful employment practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed intended or used to discriminate because of race, color,

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religion, sex, or national origin..."
(42 U.S.C. 2000e-2(h)

The next section important to this discussion makes it clear that Title VII was not intended to provide for preferential treatment to correct a percentage imbalance. It reads:

> "Nothing contained in this subchapter shall be interpreted to require any employer, employment agency, labor organization, or joint labor-management committee subject to this subchapter to grant preferential treatment to any individual to to any group because of the race, color, religion, sex, or national origin or such individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any race, color, religion, sex or national origin employed by any employer, referred or classified for employment by any employment agency or labor organization, admitted to membership or classified by any labor organization, or admitted to, or employed in any apprenticeship or other training program, in comparison with the total number or percentage of persons of such race, color, religion, sex, or national origin in any community, State, section, or other area, or in the available work force in any community, State, section, or other area".
> (42 U.S.C. 2000e-2(j)

However, by virtue of Section 2000e (Title 42 U.S.C.A.) the term "employee" within the meaning of the Equal Employment Opportunity Act was restricted to mean (insofar as pertinent):

> "a person engaged in an industry affecting commerce ...and any agent of such a person, but such term does not include (1) the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a State or political subdivision thereof..."

Therefore Title VII of the 1964 Civil Rights Act has had no applicability to employment by municipalities. Nevertheless, the act has great importance because, as we shall see, its rationale and court interpretation has in large measure been adopted as law in civil rights cases involving job discrimination by governmental agencies.

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The first major Title VII case to reach the United States Supreme Court was Griggs v. Duke Power Company, U.S._____, 28 L.Ed. 2d 158, 91 S.Ct., _____March 8, 1971.

Plaintiffs were Negro employees who, pursuant to Title VII of the Civil Rights Act of 1964, challenged Duke Power Company's requirement of a high school diploma or passing of intelligence tests as a condition of employment in or transfer to jobs at the plant.

At issue was the effect of Section 703(h) of Title VII which authorizes the use of any professionally developed ability test, provided that it was not designed, intended, or used to discriminate. The District Court found, and the Court of Appeals agreed, that plaintiffs had not shown a discriminatory purpose in the adoption of the diploma and test requirements. The Court of Appeals also held that, absent such discriminatory purpose, use of the requirements was permitted. The Court of Appeals rejected the claim that because a disproportionate number of Negroes were rendered ineligible for promotion, transfer and employment, the requirements were unlawful unless shown to be job related.

The jobs in question had formerly been filled only by white employees as part of a longstanding practice of giving preference to whites. The Duke Power Company had abandoned its policy of restricting employment of Negroes on July 2, 1965, the date on which Title VII became effective. On that date it instituted the requirement for testing and high school education. The District Court found that while the company previously followe a policy of overt racial discrimination in a period prior to the act, such conduct had ceased.

The United States Supreme Court reversed the decision of the Court of Appeals. The Court stated that the objective of Congress in the enactment of Title VII was:

> "to achieve equality of employment opportunities and remove barriers that have operated in the past to favor an identifiable group over other employees".
>
> "Under the Act, practices, procedures or tests neutral on their face and even neutral in terms of intent, cannot be maintained if they operate to 'freeze' the status quo of prior discriminatory practices". (28 L.Ed. 2d 158,163)

The Supreme Court further stated that Title VII:

> "proscribes not only overt discrimination, but also practices that are fair in form, but discriminatory in operation. The touchstone is business necessity. If

> an employment practice which operates to exclude Negroes cannot be shown to be related to job performance, the practice is prohibited." (Emphasis added) (supra, page 164)

Moreover, the unanimous decision of the court (one Justice took no part in its consideration) was that Congress has placed on the employer the burden of showing that any given requirement must have a manifest relationship to the employment in question.

Specific findings in the Griggs case were that the selection devices used by Duke Power Company were not shown to bear a demonstrable relationship to successful performance of the jobs for which they were used and had been adopted without meaningful study of their relationship to job performance ability.

The Court in Griggs also stated that the Equal Employment Opportunity Commission's (E.E.O.C.) Guidelines interpreting section 703(h) were entitled to great deference. The Guidelines issued in August 1966, and updated in August 1970, provided that employers using tests have available

> "data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior which comprise or are relevant to the jobs for which candidates are being evaluated". (29 CFR sec. 1607, 35 Fed.Reg. 12333 [August 1, 1970] at section 1607.4(c).

The Supreme Court also felt that the legislative history of section 703(h) supported the E.E.O.C.'s construction requiring that employment tests be job related.

The Griggs case is particularly significant to civil service because of its traditional reliance on competitive testing for appointment and promotion. This is so, despite the fact, previously mentioned, that Title VII is specifically not applicable to state and municipal agencies. First, there is presently pending the U. S. Congress (S.2515-Cal. No. 412)[1] a bill which will extend Title VII coverage to municipal workers. Secondly, notwithstanding the non-applicability of Title VII, the underlying rationale has influenced decisions of courts where municipal hiring practices have been challenged as discriminatory.

[1] The House has passed a bill without amendment to extend E.E.O.C. coverage to municipalities. The Senate has voted down a floor amendment which would have eliminated Title VII coverage of municipal and state workers from its bill. The prospect for the final enacted version to extend E.E.O.C. coverage to municipal workers is excellent according to

In 1968 in Jones v. Alfred Mayer Company, 392 U.S. 409, (1968), the Supreme Court resuscitated the Civil Rights Act of 1866 with a holding that its prohibitions applied to racial discrimination by private persons in the sale of property. The Court rejected the argument that the 1964 Civil Rights Act had superseded the 1866 Act in the area of fair housing. The section of the 1866 Civil Rights Act upon which the holding rests provides

> "All citizens of the United States shall have the same right in every state and territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property". 42 U.S.C. 1982

It was not long after the Jones case (supra)that another post-Civil War Civil Rights section was used to challenge alleged racial discrimination in employment by private persons. Sanders v. Dobbs Houses, Inc. 431 F. 2d 1097 (5th Cir. 1970); Walters v. Wisconsin Steel Works, 427 F. 2d 476 (7th Cir. 1970); Washington v. Baugh Construction Co. 313 F. Supp. 598 (W.D. Wash. 1969); Clark v. American Marine Corp, 304 F. Supp 603 (E.D.La. 1969); Dobbins v. Local 212 I.B.E.W., 202 F. Supp.414 (S.D. Ohio 1968). The section that formed the substantive basis for federal jurisdiction in the above cases provides:

> "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and procedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other". (42 U.S.C. 1981)

Arguments that the simple provisions of the 1866 Act shoul not be given a vitality which renders the 1964 Act superflous have had no greater weight with regard to racial discrimination in employment than they have with regard to racial discrimiantion in the sale of housing.[8]

Another section of post-Civil War Civil Rights legislation has been held to provide a remedy for discriminatory practices in state employment. This statute provides:

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8. Training Materials for Equal Employment Lawyers, George Cooper and Harriet Rubb, Part I, page 5, unpublished manuscript prepared for Columbia Law School.

"Every person who under color of any statute, ordinance, regulation, custom, or usuage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress". 42 U.S.C. 1983

Because of the requirement that the deprivation of a right, privilege or immunity be done under color of law by a "person", the above statute has been applied primarily to officers of public agencies. An important case on this point for this discussion is Penn v. Stumpf, 308 F. Supp. 1238 (1970).

Penn was a class action seeking declaratory and injunctive relief alleging discrimination in employment by the City of Oakland Police Department. Defendants were the Commissioner of the Oakland Civil Service Board, the Personnel Director and the Chief of Police. Plaintiffs represented the class of all Negro, Mexican American and Spanish surname and other minority group members who, (1) had been denied or would be denied appointment as police officers because of discriminatory procedures used to select policemen and (2) those who would be eligible for employment but were unaware of or unable to accept such opportunities because of a discriminatory recruiting program surrounding selection of policemen.

Defendants moved to dismiss on the grounds that the suit was in essence a suit against the municipality of Oakland and as such was not maintainable under 42 U.S.C. Section 1983 and also that the plaintiffs had not made out a prima facie case of racial discrimination.

On the issue of jurisdiction, the Court stated that where the relief sought was in the nature of a declaratory judgment or injunction, rather than for damages, there was no sound reason to immunize municipal officials from suit under the Civil Rights Act.

Plaintiffs alleged that hiring and recruiting of officers f the Oakland Police Department was discriminatory to members of minority racial and ethnic groups because:

1. Members of the department doing the recruiting were virtually all white and had not been screened for knowledge of non-Caucasian culture or for the presence of possible racial or ethnic biases;

2. The recruiting activities did not take into account the cultural differences in non-Caucasian communities; and

3. The written mental ability test discriminated against minority group applicants.

Plaintiffs also cited statistics which showed a marked discrepancy between the percentage of the Oakland population as a whole which was non-Caucasian and the percentage of non-Caucasian employees in the police department. It was further contended that this showing amounted to prima facie proof of discrimination in hiring.

On their motion to dismiss, defendants contended that the same procedure was followed to select recruits for the Oakland Police Department no matter what the racial or ethnic background and therefore, no group or class was discriminated against. Defendants also contended that the testing and interviewing procedures were "neutral", and if more Caucasians became policemen than did Negroes or Spanish surname applicants, it was the result of the fact that Caucasians tend, on the whole, to have "better" educational and cultural backgrounds than do non-Caucasian applicants.

The District Court denied the defendant's motion. With respect to the use of intelligence tests the court, citing a law review article,[9] stated:

> "While general intelligence tests are a commonly used method of screening applicants in many phases of public and private employment, recent studies on culture differences have made the validity of such tests increasingly suspect". 305 F. Supp. p. 242

The court also cited the District Court opinion in Griggs v. Duke Power Company, 292 F. Supp. 243 (1968) as requiring, as a minimum, that any tests used be professionally developed. Since plaintiffs had alleged that the tests in question had not been professionally developed or otherwise validated and given the striking statistical discrepancy between the total percentage of non-Caucasians in the Oakland community and the total percentage of non-Caucasians in the Oakland Police Department[10], the Court stated there were sufficient allegations

[9] G. Cooper and R. Sobol, "Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion", 82 Harv. L. Rev. 1598, 1643-1643 (1969)

[10] The Negro population of Oakland was between 32% and 45%; the Negro population of the Police Department was between 3% and 4%.

of discrimination to support the complaint. The Penn case was apparently settled or abandoned by the plaintiffs as there was no further report of it.

Nevertheless, it has been firmly established there is a federal forum available to classes of persons experiencing discrimination in employment by public agencies, albeit, the proper defendant must be an officer of a concededly public agency. See Carter v. Gallagher, 3 C.C.H. Empl. Prac. Dec. Section 8205 (D. Minn., March 9, 1971) - Fire Department; Arrington v. Mass. Bay Transportation Authority, 306 F. Supp. 1355 (D. Mass. 1969) - Transit Wrokers ; Jackson v. Wheatley School District No. 28, 430 F. 2d 1359 (8th Cir. 1970) - School Boards; Chiaffitelli v. Dettmer Hospital, Inc., 437 F. 2d 429 (6th Cir. 1971), Mizell v. North Broward Hospital District, 427 F. 2d 468 (5th Cir. 1970), Cypress v. Newport News General and Nonsectarian Hospital Assoc., 375 F. 2d 648 (4th Cir. 1967) - Public and semi-public hospitals; Johnson v. Louisana State Employment Service, 301 F. Supp. 675 (W.D.La. 1968) - State employment services; Castro v. Beecher, No. 70, 1220 (W. Dist. Ct. Mass. Nov. 19, 1971), Penn v. Stumpf, supra, - Police Departments.

In New York City the first action alleging racial discrimination in civil service employment which is traceable to the doctrine enunciated in Griggs is that of Chance v. Board of Examiners and Board of Education of the City of New York, Dist. Court, So. Dist. 8 N.Y., 70 Civ. 4141. This case is a class action for declaratory judgment and injunction by representative plaintiffs who alleged that the selection process for the position of school principal discriminates against blacks and Puerto Ricans Trial of this action was scheduled to begin February 15, 1972. However, plaintiffs sought and were granted, on a strong showing of likelihood of success, an injunction restraining defendants from conducting promotion examinations and from promulgating eligible lists on the basis of such examinations until the trial of the issue. (Supra, 70 Civ. 4141, July 14, 1971)

On their application for preliminary injunction plaintiffs alleged that the competitive examination for supervisory position administered by the Board of Examiners discriminated against persons of black and Puerto Rican race and had not been validated or shown to fairly measure the skill, ability and fitness of applicants to perform the duties of the positions for which the examinations were given, with the result that success on the examinations did not indicate in any way that the candidate would succeed as a supervisor.

The plaintiffs pointed out that of the 1000 licensed principals of New York City public schools, only 11 or about 1%

are black and only 1 is Puerto Rican. Also, of the 1,610 Assistant Principals of New York City junior high and elementary schools, only 7% are black and .2% are Puerto Rican. Statistical surveys conducted by the parties to this action disclosed that white candidates passed supervisory examinations at from 1 and 1/2 to 2 times the rate of black and Puerto Rican candidates. Statistical data also disclosed that whites passed examinations at a proportionately higher rate in three times as many examinations as the non-whites. The court found that the probability of these results occurring by chance was less than 1.05 in 1,000. This finding was based on the expert testimony of statistical analysis of the pass/fail survey results which were not disputed. With regard to the gross aggregate pass/fail statistics which indicated that the overall pass rate of white candidates was 44.3% and that of non-white was 31.4%, the court was impressed by expert testimony that the probability of the difference being a chance result not related to the factor of race was less than one in one billion. (page 17 of slip opinion).

The court was also impressed by statistics which indicated that New York City had the lowest percentage of black and Puerto Rican Principals and Assistant Principals in its school system when compared to the cities of Detroit, Philadelphia, Los Angeles and Chicago. The court however, refused to accept as relevant evidence the racial composition of New York City on the ground that that population did not correspond with the population of the pool of candidates eligible to compete for the positions in question.

On the basis of the statistical evidence considered relevant, the District Court concluded that:

> "the examination prepared and administered by the Board for the licensing of supervisory personnel in New York City schools do have the de facto effect of discriminating significantly and substantially against qualified Black and Puerto Rican applicants". (page 23 of slip opinion)

> "...the existence of such discrimination, standing alone, would not necessarily entitle plaintiffs to relief. The Constitution does not require that minority group candidates be licensed as supervisors in the same proportion as white candidates. The goal of the examination procedures should be to provide the best qualified supervisors, regardless of their race, and if the examinations appear reasonably constructive to measure knowledge, skills and abilities essential to a particular position, they should not be nullified because of a de facto discriminatory impact". (page 23 of slip opinion)

Accordingly the court took up the question whether the examinations were "job related". Plaintiffs contended that upon a showing of discriminatory impact, the burden was on the Board to show a compelling necessity or justification for the tests having an unintended discriminatory effect. The line of cases culminating in Griggs v. Duke Power Co. was relied on to support plaintiffs contention. The District Court stated those cases arose under Title VII of the 1964 Civil Rights Act, 42 U.S.C. 2000e, et seq., and therefore, while relevant, were not controlling. Nevertheless, the court stated:

> "where official conduct discriminates as to race it is 'constitutionally suspect', subject to 'most rigid scrutiny' and bears a 'very heavy burden of justification'..."

On the strength of the above authorities and since the situation was parallel to that in Griggs, the court was

> "satisfied that where, as here, plaintiffs show that examinations result in substantial discrimination a strong showing must be made by the Board that the examinations are required to measure abilities essential to performance of the supervisory positions for which they are given."
> (page 26 of slip opinion)

By its discussion of the evidence with respect to the validity, reliability and objectivity of the examinations used by the Board of Examiners, the District Court's opinion makes it clear that the Court was aware of and considered the question in light of professional testing principles and technical information made available by the parties.

The Court accepted the proposition that before an examination will be recognized as a reliable instrument for measuring the fitness and ability of a candidate to perform tasks demanded by a given position, the examination should be validated, i.e., shown to be reasonably capable of measuring what it purports to measure. The first step is to construct an examination that will elicit information that is relevant to the job for which it is given; if so the examination has "content validity." In constructing an examination with content validity, a job analysis of the positions duties should be prepared to enable examiners to formulate questions which will measure these characteristics. Thereafter, the validity of an examination to select the best qualified candidates may be checked empirically by comparisons of later performance of successful candidates with their test scores. A significant correlation between test scores and later performance indicates "predictive validity."

If an examination has the above characteristics and it is administered objectively and free from bias, the court stated it is a "useful selection tool". (page 29 of slip opinion). The court also recognized (as did both sides) that examination procedures may have weaknesses in testing for high level executive positions.

With the above considerations in mind the court examined the structure and procedure of the Board of Examiners supervisory examinations. These examinations had been combination essay and short answer with written and oral portions.

The court found that the Board of Examiners had not taken sufficient steps to insure validity, either for content or predictiveness, even though it had recognized such an end as a desirable goal.

The court found many of the short answer and essay questions to have little relevance to qualities expected of a school supervisor, but were rather directed at testing a candidate's ability to memorize. The court found support for its analysis in the Arco study book for Principal, Assistant to Principal positions which emphasized a course of training in memorization and use of mnemonic devices. The court stated:

> "The ability to memorize and regurgitate laundry lists of pat answers is not, we hope, a true test of a candidate's qualifications for a supervisory position".
> (page 40 of slip opinion)

The District Court concluded:

1) that the examinations for supervisory personnel have the de facto effect of discriminating significantly and substantially against black and Puerto Rican applicants;

2) such a discriminatory impact is constitutionally suspect and places the burden on the examiners to show the examination can be justified as necessary to obtain persons with skills necessary to successful performance; and

3) there appeared to be a strong likelihood that plaintiffs would prevail on the merits at trial.

Therefore, preliminary relief enjoining all further examinations and appointments during the pendency of the action was granted.

The Chance case as it has thus far developed represents an indictment of the civil service selection system as irrelevant rather than racist. If plaintiffs are successful after trial of the case, the issue of the proper remedy to be applied will be decided.

This discussion was begun with the most recent statement of a Federal Appellate Court in fashioning a remedy to redress members of a class who have proved they were victims of past discrimination. At this point it is necessary to go back to the Carter v. Gallagher (Court of Appeals for the 8th Cir. Slip Opinion No. 71-1181, January 7, 1972) for analysis as to how the court arrived at its conclusion.

The Carter case began as a class action for a declaratory judgment and injunctive relief by representative plaintiffs who alleged discrimination in hiring of blacks and Spanish surname minority group members for the City of Minneapolis Fire Department.

The District Court found that it had jurisdiction under 28 U.S.C. 1343(3) and (4), that the practices and procedures of the Minneapolis Civil Service Agency over a period of 25 years had involved a pattern or practice of racial discrimination against minorities in violation of 42 U.S.C. 1981 and 1983 and that an affirmative action plan used for the last two years had not eliminated the effects of such discrimination. The court also concluded that it had the power to issue a decree which would eliminate the continuing effects of past discrimination. In addition to other relief, the District Court ordered the absolute preference in the hiring of 20 minority fire fighters and granted an injunction to prevent application of local laws requiring certification of eligible employees on the basis of their relative standing on competitive examinations. (3 E.P.D. 8205, U.S. D. Ct. Minn., March 3, 1971).

On appeal from the District Court, an 8th Circuit Court of Appeals three judge panel modified the judgment. It affirmed the judgment except that portion which granted absolute preference in the hiring of 20 minority group members (3 E.P.D. 8335 - U.S. Court of Appeals, 8th Cir., No. 71-1181, Sept. 9, 1971). The court stated that a federal trial court had power in the exercise of its equitable powers to fashion a remedy which would eliminate the present effects of past discrimination as well as to bar like discrimination in the future, but it was in error for a court to require municipal officials to give absolute preference to 20 minority applicants who met the qualifications for the position under the standards as revised in the judgment of the District Court. This type of preference, according to the Court, would

amount to reverse discrimination against white applicants whose qualifications were found to be superior to those of minority applicants and who, but for the minority preference requirement, would be entitled to priority in employment. (3 E.P.D. 8339)

A petition for rehearing of the case before the 8th Circuit en banc was granted solely on the issue of preference in hiring as a remedy to correct for past discrimination. (Court of Appeals for 8th Circuit, No. 71-1181, Jan. 7, 1972). The Court voted 8 to 1 to modify the view of the previous two-to-one decision of the three-judge panel and gave its approval for the District Court to formulate an order which would provide for the hiring of one minority member out of every three qualified persons until 20 minority persons have been hired. (page 9 of slip opinion).

One justice who sat on the first appeal panel changed his position and voted with the majority on the rehearing. The sole dissenting judge stated that while the one out of three preference provision would not discriminate against as many white applicants as an order for absolute preference, it would still give some minority persons preference over white applicants with superior qualifications. He was of the opinion that this formula still deprived persons of constitutionally guaranteed rights. (pages 11 and 12 of slip opinion).

The majority placed heavy emphasis on the following considerations in ordering one out of three minority preference:

1) Use of mathematical ratios as a starting point in the process of shaping a remedy is not unconstitutional; [citing Swann v. Charlotte-Mecklenburg Bd. of Ed., 402 U.S. 125 (1971)]

2) Because of past discrimination it is not unreasonable to assume that the minority community would still be reluctant to apply for employment absent some positive assurance that if qualified, they would be hired on more than a token basis;

3) Because of the absence of validation studies (established by the trial court), it is speculation to assume that the qualifying test, besides separating applicants, also ranks qualified applicants with precision, statistical validity and predictable significance; and

4) A one-out-of-three ratio is appropriate given the substantial minority population of Minneapolis. (6.44% including 4.3% black population).

Jurisdiction in the Carter case was based on the following Federal statutes:

28 U.S.C. 1343 "Civil rights and elective franchise"

"The District Courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:
(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;
(2) To recover damages from any person who fails to prevent to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;
(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;
(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote".

28 U.S.C. 2201 "Creation of remedy".

"In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such".

28 U.S.C. 2202 "Further relief".

"Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment".

42 U.S.C. 1981 "Equal rights under the law".

"All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other".

42 U.S.C. 1983 "Civil action for deprivation of rights".

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress".

I previously indicated that section 703(j) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2(j) limits the Equal Opportunity Employment Act to remedies which do not involve preferential treatment to correct for percentage imbalance. However, in suits challenging municipal or state government hiring practices, section 2000e-2(j) is no bar to a remedy which would provide for preferential hiring. The Carter case and others like it are predicated on section 1981 of the old Civil Rights Act and the District Court sitting as a court of equity has wide power to fashion relief enforcing the mandate of Congress and the Constitutional guarantees of Equal Protection of the Law.

Furthermore, even in Title VII (Civil Rights Act of 1964) cases courts have ordered unions and employees to hire or recruit on a percentage or ratio basis even though the victims of discrimination are not identifiable as specific individuals. See U. S. vLocal No. 8 et al, 315 F. Supp 1202 (W.D.Wash. 1970); Local 53 of Int. Ass'n of Asbestos Workers v. Vogler, 407 F. 2d 1047 (5th Cir. 1969); U.S. v. Central Motor Lines, Inc., 325 F. Supp 478 (W.D.N.C. 1970). Also see Contractors Association of Eastern Pa. v. Secretary of Labor- 442 F. 2d 159 (3rd Cir. 1971) (upholding the "Philadelphia Plan" under executive order #11246 for percentage minority employment goals.)

In Carter the court referred to the above group of cases and recognized that none involved an absolute hiring

preference; a remedy which "would operate as a present infringement on those non-minority persons who are equally or superiorly qualified for the fire fighters positions". A reasonable ratio for hiring minority persons who can qualify under the revised standards for a limited period of time until there was a minority representation consistent with the population mix in the area was conceived by the Court as the way to accomodate the conflicting considerations. The Court felt that this did not constitute a "quota" system because it would terminate when the court's order was implemented.

A recent class action brought in Massachusetts against the Civil Service Commission and Commissioner of Police in Boston is interesting to discuss for the approach used by the plaintiffs to show discrimination and for the approach taken by the court in deciding the issues. This is the case of Castro v. Beecher, U.S. Dist. Court, Mass, 70 Civil 1220 W, Nov. 17, 1971. It was a class action based on 42 U.S.C. 1983 in which the plaintiffs alleged that defendants were engaging in a policy and practice of invidiously discriminating against blacks and Spanish surnamed persons in the recruitment and appointment of policemen. The practices alleged to be discriminatory were:

1) furnishing on a discriminatory basis information about police employment opportunities;
2) establishing educational requirements not bearing upon any legitimate job qualifications;
3) requiring police applicants to submit to a written examination which had not been validated as predictive of successful job performance in the position of policeman; and
4) requiring police applicants to submit to other miscellaneous job requirements, such as a height test and swimming test.

The Court found no evidence of invidious discrimination and viewed the controversy in the following manner:

> "What is factually in issue is whether defendants' standards and procedures for the recruitment and hiring of policemen are significantly related to a policemen's successful job performance, and, if not, whether, as the complaint alleges, they operate as part of a policy, that is, as elements in a course of conduct, which objectively has the consequence of disqualifying black and Spanish surnamed actual and potential police applicants at a substantially higher rate than the generality of white applicants". (page 30 of slip opinion).

The court refused to accept the plaintiffs contention that since the population of blacks in Boston was 9% in 1960 and 16.3% in 1970 and the respective figures for blacks in the Boston Police Department were about 2% in 1960 and 3.6% in 1970, a prima facie case of racial discrimination was established. (page 6 of slip opinion) However, the court did state that such a "substantial discrepancy invited inquiry" (supra, page 4) Although the situation was not viewed as a prima facie showing of discrimination, the court nevertheless felt it necessary to consider in detail the challenged practices.

The court disposed of the allegation of failure to apprise plaintiffs of employment opportunities. The court found that each representative plaintiff had known about police employment opportunities and they did not have standing to raise the issue on behalf of unrepresented members of the alleged "uninformed class". Nevertheless, the District Court stated the specific grievance was not true because the Civil Service Commission had posted in its own offices, city and town offices, and in Boston police stations, notices of pending police examinations. The court found the "formal notices were adequate and non-discriminatory". (supra, page 8). The court further stated there was no duty in the absence of a court order, to take affirmative measures directed at minority groups to encourage them to apply for employment. (supra, page 9)

With regard to the statutory requirement of a high school diploma or equivalency certificate for appointment to the police department, the court found that the "requirement is obviously significantly related to job performance as a policeman". "Policemen, unlike the firemen involved in Carter v. Gallagher [supra]...are in a calling in which book knowledge is an important element..." (supra, page 10)

That the Massachusetts statute was enacted subsequent to the Crime Commission's report[17] recommending that every police department require that all recruits have a high school diploma and ability to do college work, provided the District Court with the evidence that the requirement was adopted after "meaningful study" of the requirement's "relationship to job performance ability" [citing Griggs v. Duke Power Company, supra]. The fact that no validation study was undertaken was deemed irrelevant. (supra, page 10).

As to the challenge to the 5'7" height requirement, the court stated none of the plaintiffs had standing. The only plaintiff under 5'7" had "never passed a police entrance examination". However, the court assumed the issue was properly before it and felt that while height was not determinative of fitness to be a policeman, it was significantly related to fitness to be a policeman because:

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17 Report of the National Advisory Commission on Civil Disorders.

MEMORANDUM OF LAW

TO: HONORABLE PATRICK V. MURPHY
POLICE COMMISSIONER

FAIR EMPLOYMENT LAW AND MINORITY RECRUITMENT AND PROMOTION

WITHIN THE

NEW YORK CITY POLICE DEPARTMENT

~~By: JOHN A. COSTA~~
~~Patrolman~~
~~Legal Division~~

Respectfully submitted,

LUIS M. VELO
Deputy Commissioner of the
DEPUTY COMMISSIONER
LEGAL MATTERS

~~JOHN A. COSTA~~
~~Chief Counsel~~

INTRODUCTION

The population of New York City in 1970 was 7,867,770. Of that number about 1,666,636 persons or about 21% are black. Also, 1,716,772 persons are Hispanics, of which 1,006,326 are Puerto Ricans; the balance of 710,446 represent 18 Latin American countries and Spain. The total New York City Spanish speaking population constitutes 21% of New York City's total population.*

The New York City Police Department has 31,017 members in the uniformed forces according to a November 1971 census conducted for the New York City Commission of Human Rights. Blacks represented 7% (2,160) and Puerto Ricans and other Spanish back ground (by surname) represented about 2.2% (699) of the total force. There are 5 Chinese, 7 "others" and 28,206 white members of the force.

The New York City Police Department is therefore 90.8% white in a city which is 42% black and Hispanic.

The above figures speak for themselves and they illustrate the gross underrepresentation of minority group members within the New York City Police Department.

In 1967 in testimony before the National Advisory Commission on Civil Disorders, Police Commissioner Patrick V. Murphy, then Public Safety Director of the District of Columbia, stated:

> "I think one of the serious problems facing the police in the nation today is the lack of adequate representation of Negroes in police departments. I think the police have not recruited enough Negroes in the past and are not recruiting enough of them today. I think we would be less than honest if we didn't admit that Negroes have been kept out of police departments in the past for reasons of racial discrimination".
> (Report of the National Advisory Commission on Civil Disorders, Bantan, March 1968, page 316)

In the fall 1971 proposal of the Personnel Bureau entitled "Comprehensive Personnel Policy for the New York City Police Department", the scalar and functional postiions held by Blacks and Hispanics in the New York City Police Department were reported.(See Appendix D and E of report). Of the 501 officers who held the rank of Captain and above, 7 were Blacks and none were Hispanic. Of the 1,081 Lieutenants, 22 were Black and 5 were Hispanic. Therefore, blacks represent only about 3% of the 3,947 superior officers although they comprise about 7% of the total force. Hispanics fared far less well. Of all the superior officers, Hispanics represent only .53% even though they comprise 2.2% of the total force.

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*National Conference of Christians and Jews, ~~report~~.

In March 1968, the National Advisory Commission on Civil Disorders recommended among other things:

> "Police departments should intensify their efforts to recruit more Negroes.
>
> In order to increase the number of Negroes in supervisory positions, police departments should review promotion policies to ensure that Negroes have full opportunity to be rapidly and fairly promoted."
> (ibid page 316)

The fact that the lack of Hispanics and other minority groups was not addressed by the Commission was an oversight. Unfortunately, the Commission's approach was limited to dealing with the problems which arose in the 1960's out of the increasing militancy of the Negro minority. The militancy of the Hispanic and other minority groups is of more recent development.

In New York City the first positive efforts to bring more minorities into the Police Department antedate the Kerner Commission report by at least 2 years. In 1966, this Department, no doubt in response to impetus from a new administration which is sensitive to and recognizes the legitimate aspirations of the Negro and Puerto Rican of New York, initiated a program to supplement the recruitment efforts conducted by the City Department of Personnel. Street recruitment by black and Hispanic officers was the first positive attempt to inform the minority community of the department's "earnest desire to recruit as many qualified blacks and Hispanic candidates as was possible." This program has been described as resulting in a "dramatic percentage increase of minority group appointments." [1]

The fact is, however, this department's efforts to recruit more minority group members must, at best, be described as mere tokenism; at worst, as a complete failure. In the year 1964, of a total 1,396 appointments, 4.3% were black and 1% was Hispanic. In 1965, 3.4% and .8% of 2,081 were black and Hispanic respectively. In 1968 after two years of minority recruiting, of 4,279 appointments 7.2% were black and 3% were Hispanic. In 1969, 23% of 2,745 appointees were black or Hispanic (17% and 6% respectively). In 1970, the percentage of black and Hispanic

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1. Comprehensive Personnel Policy for the New York City Police Department, page 2

appointees dropped back to 12% (7% and 5% respectively) of 645. In 1971, due to the job freeze, no appointments were made.*

After 5 years of efforts which have supposedly dramatically increased minority group recruitment, the fact remains the New York City Police Department is still 90.8% lily white.

In recent months the patience of minority groups seeking equality of access to civil service jobs has worn thin. In city after city recruitment, hiring and promotion practices have been increasingly challenged as discriminatory. Here in New York City a preliminary injunction has been obtained against the Board of Examiners of the Board of Education enjoining all promotion examinations for the position of principal pending trial of a class action brought by Blacks and Puerto Ricans who contend that the traditional civil service examinations discriminate against them as a group. In order to get the injunction, plaintiffs were required to show a strong likelihood of success in their action and they did.

Many of the suits have received prominent attention by the news media and have stirred considerable controversy in the community especially among civil service groups. In response to this litigation and to the possibility that a significant legal trend may be developing, Deputy Commissioner in Charge of Legal Matters, Luis M. Neco, some months back posed the following question:

> "In view of the recent decisions in cases challenging civil service appointment and promotion practices as discriminatory, will the Police Department be required to take such steps as to insure appointment and promotion of far greater numbers of minority group members so that the representation of blacks and Hispanics in the Police Department will approximate that in the city as a whole?"

As a collateral question, Commissioner Neco asked:

> "Do traditional police department competitive examinations for promotion provide for fair representation of blacks and Hispanics in the superior officer ranks?"

I was directed to make the broadest possible research in the area of civil service practices and procedures and fair employment civil rights legislation and applicable court decisions.

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* Therefore, this is the only year for which data exists that the representation of minorities equaled that of whites.

Appendix - letter by John A. Costa

In the research effort I was assisted by Mr. Israel Ruiz, Jr., a third year Columbia Law student who was taking a community student project seminar course for credit and had elected to work for the Police Department through the office of Mr. Philip Lacovara, Special Counsel to the Police Commissioner. I also received research assistance from Mr. Dean Allison, a second year New York University law student with whom I exchanged source material since he was working independently on research for a New York University Law Review article on minority members in the New York City Police Department. I also gratefully acknowledge the help of Elizabeth Dubois, Esq., attorney for the N.A.A.C.P. Legal Defense Fund for her efforts in keeping me up to date on the very latest cases.

For the past few months in New York City, a committee composed of Department heads and representatives from the Mayor's Office, Police Department, Department of Personnel and Corporation Counsel's Office has been meeting regularly to develop a proposal for presentation to the Mayor to change the civil service examination and appointment process to result in appointment of more Negroes and Puerto Ricans to the police force. As Aide to Commissioner Neco, I have attended several of the committee's meetings. The committee proposal has not at this date been finalized and nothing in this report should be construed as any indication of what the final recommendation of that group will be, nor that their views are necessarily in accord with mine, nor mine with them.

This report is divided into three parts. First, I have attempted to explain the development of current trends in fair employment law and to indicate the probable future direction of the law. Second, I have examined the appointment and promotion process in use today and tried to discover where this process and the effort to recruit and advance black and Hispanic officers has clashed. The final part of this report deals with recommendations for future change.

PART I

On January 7, 1972, the United States Court of Appeals for the 8th Circuit, ruling en banc after a rehearing on the issue of a proper remedy in a class action which established that the City of Minneapolis had discriminated against blacks and other minority applicants for its Fire Department, stated:

> "...we feel that it would be in order for the district court to mandate that one out ~~of~~ every three persons hired by the Fire Department would be a minority individual who qualifies until at least 20 minority persons have been so hired." (Carter v. Gallagher, Court of Appeals for 8th Circuit, Slip Opinion No. 71-1181, January 7, 1972, page 9

The Court in Carter v. Gallagher (supra) has gone further than any other appellate court to date in seeking a judgment that is constitutionally sound and yet still effective to redress members of a class for past discrimination. The single dissenting judge in Carter stated that employment preferences based on race are prohibited by the Fourteenth Amendment. This decision of the 8th Circuit is reflective of a rapidly developing case law which is going to present a profound challenge to the traditional civil service system in this country.

Carter is likely to receive further review by the United States Supreme Court this year. ~~In my opinion,~~ there is a strong likelihood that the decision will be affirmed. A "quota system"* for public hiring is a rather startling but not unexpected development. To understand how a court reached that result it is necessary to trace the recent development of what I call "no fault fair employment law".

TAKE IN AAA on p.22

As recently as 1967, the thrust of American fair employment laws could be stated as:

> "...the conduct which ultimately forms the basis of a finding of discrimination under fair employment laws is prohibited only when it is coupled with a certain state of mind. Thus, discrimination is essentially an equivocal act accompanied and inspired by the mental element of prejudice. It is the motive that distinguishes the prohibited act, not the act itself..."[2]

4, 1* described by the majority in Carter as "an alternating ratio".

5, 2. Training Materials For Equal Employment Lawyers, Part 1, page 3 Columbia Law School Project in Fair Employment, George Cooper and Harriet Rabb, Unpublished Manuscript.

This view influenced virtually all fair employment enforcement efforts until the late 1960's, and, as a consequence, very little was accomplished. Factual problems of proof rendered the statutes and other provisions powerless against patterns and practices which grossly limited employment opportunities of blacks, women and other minority groups.[6]

In 1945, New York State enacted legislation creating the State Commission Against Discrimination (Chapter 118 Laws of 1945). The Commission was supposed to have the power to

> "eliminate and prevent discrimination in employment because of race, creed, color or national origin, either by employees, labor organizations, employment agencies or other persons..."
> (Section 290, Executive Law, McKinneys, 1951 Edition).[7]

The Commission also has jurisdiction to and power to eliminate and prevent discrimination in employment in all public agencies. (Board of Higher Education of the City of New York v. Carter, 14 NY 2d 138, 250 NYS 2d 33, 1964).

Nevertheless, in New York and other states, employment data from World War II through the 1960's comparing blacks and whites showed no significant change over the years in the ratio of black to white unemployment or comparative pay rates.[8]

Under the traditional interpretation of fair employment laws, few objective practices were challenged. The emphasis was on the language in most statutes which prohibited discrimination "because of race". Difference in treatment resulting from employment policy that made no reference to race was thought attributable to the policy itself and not to racial classification unless that policy was a mere subterfuge for specific discriminatory intent.[9]

(p3)

This interpretation has been recognized to be inadequate in view of the nature of the racial discrimination in employment. This country's history of racial segregation and discrimination has produced rigid patterns and differences in housing, education, culture and employment status. Blacks and other minorities in

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6 — 3. ibid.

7 — 4. Now called the State Commission for Human Rights by virtue of 1969 Amendment - Chapter 359 Laws of 1969.

8 — 5. Op. cit page 2

9 — 6. Seniority and Testing Under Fair Employment Laws: A General Approach to Objective Criteria of Hiring and Promotion, by George Cooper and Richard B. Sobol - Harvard Law Review, Volume 82, No. 8, June 1969, page 1600.

Special Projects #

The City of New York

POLICE DEPARTMENT
NEW YORK, N. Y. 10013

March 3, 1972

From: Special Assistant to Commanding Officer, Personnel Bureau.

To: Police Commissioner.
Commanding Officer, Personnel Bureau.
Special Counsel to Police Commissioner.

Subject: MINORITY RECRUITMENT/PATROLMEN LISTS.

1. It appears that in the absence of some form of court action mandating hiring of patrolmen, the existing freeze will continue at least until the start of Fiscal Year 1973-74. That is sixteen months off.

2. There appears to be general agreement that existing testing, and our own past recruitment efforts, are the major roadblocks to adequate minority group representation within the Department. The former is probably unconstitutional, the latter did not truly exist until all too recently.

3. It behooves us to correct both problems in the intervening sixteen months. I recognize that serious discussions have already begun with respect to testing, and that substantial improvements have been made on the matter of recruitment. However, I have deep reservations about both efforts as they presently stand.

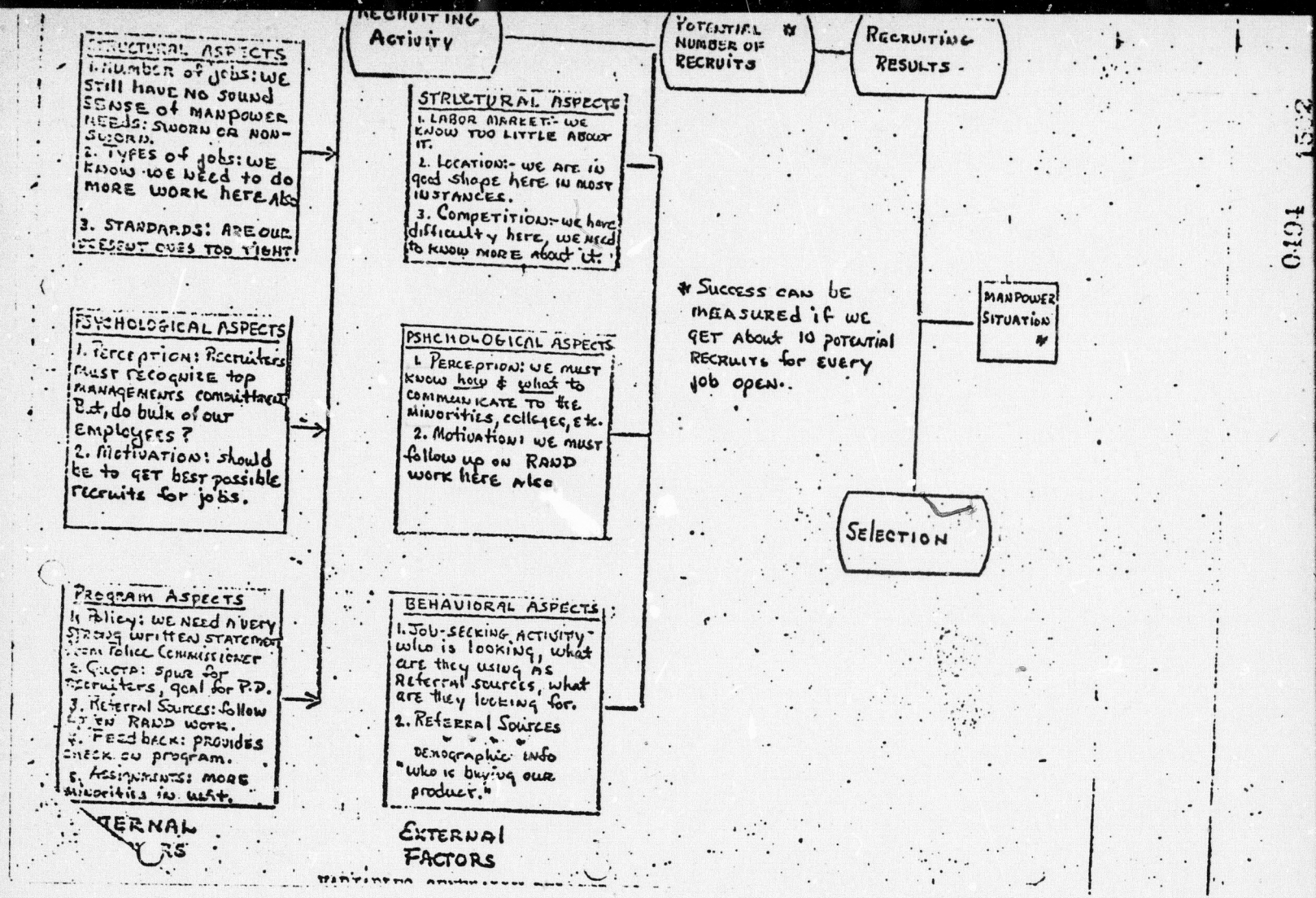
4. As indicated on Chart A, attached hereto, both testing and recruiting are conditioned on job analysis. Since testing must, by law, be related to job performance, it is impossible to develop a new test until we undertake a job analysis for the rank of patrolmen (the same holds true for promotion examinations). To the best of my knowledge this is not being done.

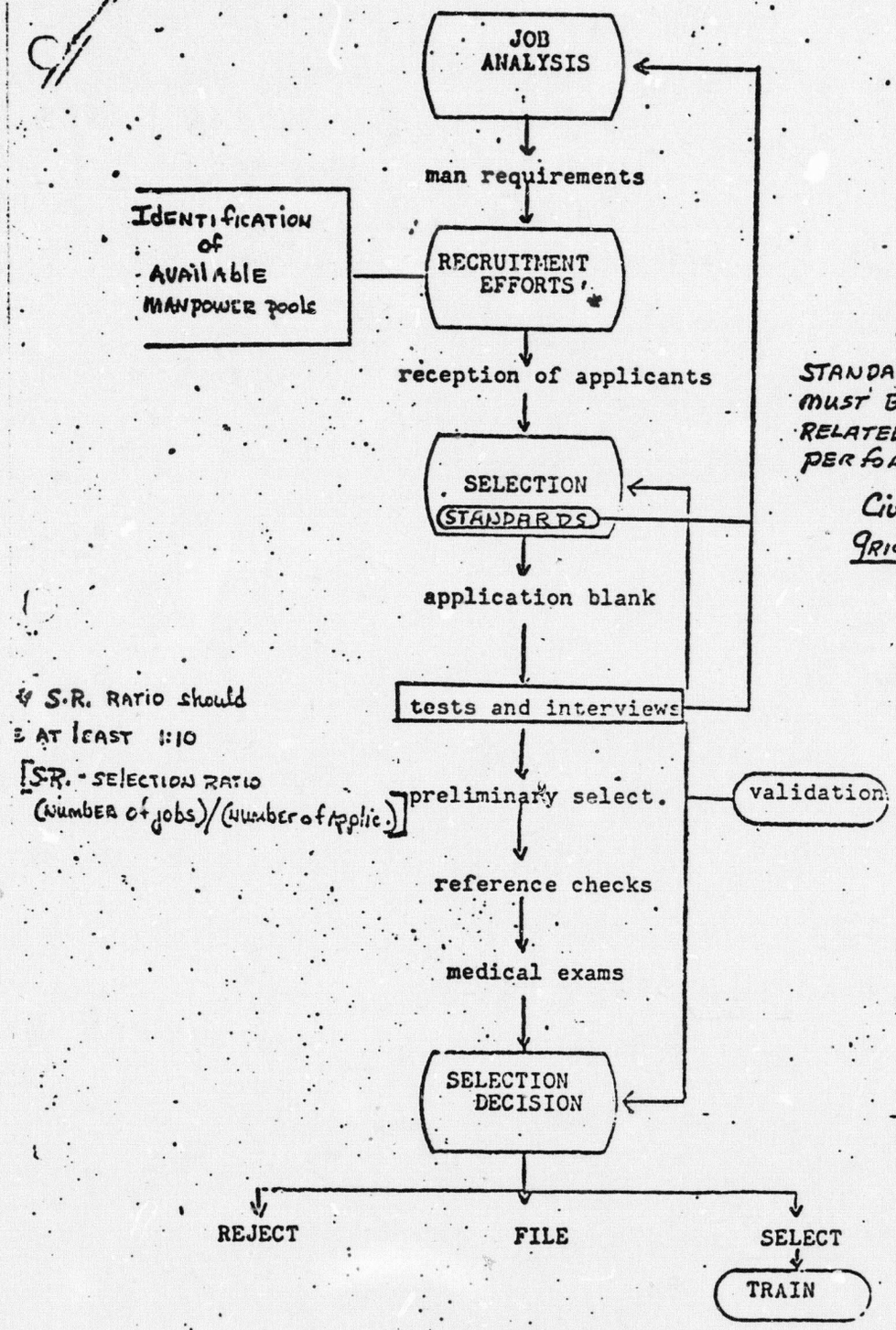
5. Chart B outlines issues typically related to recruiting and raises a number of questions which must be answered before we can embark on any recruitment drive for minorities with any sense that it will be successful. These questions must also be addressed and answered in the next sixteen months. The biggest relates to available manpower pools. This is a major study (time 12+ months, $100,000+). We have little time to lose.

6. For your comments.

Peter Smith Ring
Special Assistant to
Commanding Officer
Personnel Bureau

emm


RECRUITING ACTIVITY
POTENTIAL NUMBER OF RECRUITS *
RECRUITING RESULTS -
STRUCTURAL ASPECTS
1. NUMBER of JOBS: WE STILL HAVE NO SOUND SENSE of MANPOWER NEEDS: SWORN OR NON-SWORN.
2. TYPES of JOBS: WE KNOW WE NEED to do MORE WORK HERE ALSO
3. STANDARDS: ARE OUR PRESENT ONES TOO TIGHT
PSYCHOLOGICAL ASPECTS
1. PERCEPTION: Recruiters MUST RECOGNIZE top MANAGEMENTS commitment But, do bulk of our EMPLOYEES?
2. MOTIVATION: should be to GET BEST possible recruits for jobs.
Program Aspects
1. Policy: WE NEED A VERY STRONG WRITTEN STATEMENT from Police Commissioner
2. QUOTA: spur for recruiters, goal for P.D.
3. Referral Sources: follow up on RAND work.
4. Feed back: PROVIDES CHECK on program.
5. Assignments: MORE MINORITIES in WEST.
INTERNAL FACTORS
STRUCTURAL ASPECTS
1. LABOR MARKET:- WE KNOW TOO LITTLE ABOUT IT.
2. LOCATION:- WE ARE IN good shape HERE IN MOST INSTANCES.
3. Competition:- we have difficulty here, we need to know more about it.
PSYCHOLOGICAL ASPECTS
1. PERCEPTION: WE MUST KNOW how & what to COMMUNICATE TO the MINORITIES, colleges, etc.
2. Motivation: WE MUST follow up on RAND work here also
BEHAVIORAL ASPECTS
1. Job-SEEKING ACTIVITY - who is looking, what are they using as Referral sources, what are they looking for.
2. Referral Sources
DEMOGRAPHIC INFO "who is buying our product."
EXTERNAL FACTORS
* Success can be measured if we get about 10 potential recruits for every job open.
MANPOWER SITUATION *
SELECTION



TYPICAL EMPLOYMENT PROCESS

The City of New York

POLICE DEPARTMENT

NEW YORK, N. Y. 10013

December 15, 1971

From: Commanding Officer, Personnel Screening Unit

To: Deputy Commissioner of Community Affairs

Subject: DROP OUT RATE IN RETURN OF P.A. 15'S FOR 1969 PATROLMANS EXAMINATIONS.

1. The drop out rate for the number of candidates that passed the medical and physical examination and the number of candidates who failed to return the P.A. 15's is as follows:

Exam No.	Date of Exam.	Failed to Return P.A. 15's		
		B	W	H
8108	1/18/69	32.4%	5.0%	11.2%
9019	4/5/69	50.1%	*	18.2%
9049	6/28/69	32.4%	*	30.9%
9080	10/25/69	31.8%	12.5%	29.9%

* The reasons for a greater number of whites returning P.A. 15's than the number who passed the physical and medical examinations are probably because a) a mistake as to whether the candidate was Hispanic or white b) the candidate might have been in the armed forces at the time of the physical and medical examinations and took them at a later date.

Charles Henry
Deputy Inspector

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Sex	Male	%	Female	%	Male	%	Female	%	Male	%	Female	%	Male	%	Female	%
70	682	2.12	382	3.35	181	1.10	51	1.13	231	4.12	199	4.81	153	3.56	71	1
71	712	2.21	376	3.42	177	1.08	69	1.53	239	4.27	198	4.78	178	4.15	68	5
72	778	2.41	417	3.61	201	1.22	79	1.76	240	4.28	202	4.88	190	4.43	76	6
73	880	2.91	459	3.71	265	1.61	83	1.84	272	4.86	225	5.43	200	4.97	82	7
74	910	2.91	473	4.09	261	1.59	104	2.31	279	4.98	229	5.53	205	5.10	71	6
75	967	3.09	490	4.24	314	1.91	130	2.89	291	5.19	214	5.17	192	4.77	67	5
76	1109	3.54	538	4.66	404	2.46	155	3.44	305	5.44	236	5.70	203	5.05	68	5
77	1179	3.77	566	4.89	425	2.58	159	3.53	314	5.61	247	5.96	222	5.52	63	5
78	1290	4.12	545	4.71	521	3.17	157	3.49	297	4.98	245	5.92	243	6.04	63	5
79	1296	4.15	581	5.02	540	3.28	181	4.02	322	5.75	238	5.75	215	5.10	66	5
80	1460	4.66	567	4.90	641	3.90	200	4.44	313	5.59	229	5.53	222	5.52	48	4
81	1483	4.74	595	5.14	737	4.48	221	4.91	306	5.46	216	5.22	226	5.62	71	6
82	1570	5.02	588	5.08	821	4.99	224	4.98	270	4.82	218	5.26	225	5.60	57	4
83	1584	5.06	604	5.22	846	5.15	243	5.40	287	5.12	199	4.81	186	4.63	57	4
84	1698	5.43	561	4.85	962	5.85	227	5.04	271	4.84	194	4.68	173	4.30	49	4.2
85	1815	5.80	611	5.28	1051	6.39	294	6.53	258	4.61	190	4.59	195	4.77	37	3.2
86	1742	5.57	548	4.74	1096	6.67	311	6.91	232	4.14	138	3.33	156	3.88	26	2.2
87	1648	5.27	560	4.84	1072	6.52	309	6.87	187	3.34	133	3.21	139	3.46	29	2.5
88	1611	5.15	479	4.14	1017	6.18	268	5.96	185	3.30	116	2.80	126	3.13	23	2.0
89	1566	5.00	454	3.92	1042	6.34	258	5.73	163	2.91	96	2.32	108	2.69	23	2.0
90	1350	4.31	335	2.90	927	5.64	223	4.96	114	2.03	50	1.21	85	2.11	12	1.0
91	1220	3.90	295	2.55	902	5.49	186	4.13	75	1.34	56	1.35	77	1.91	10	.8
92	954	3.05	207	1.79	688	4.18	138	3.07	63	1.12	39	.94	44	1.09	4	.3
93	705	2.25	140	1.21	512	3.11	111	2.47	36	.64	14	.34	28	.70	10	.0
94	512	1.64	87	.75	406	2.47	60	1.33	25	.45	12	.29	21	.52	3	.2
95	308	.98	46	.40	235	1.45	35	.78	12	.21	3	.07	11	.27	0	—
96	162	.52	26	.22	126	.76	19	.42	10	.18	1	.02	5	.12	2	.1
97	67	.21	7	.06	49	.30	2	.04	3	.05	3	.07	1	.02	1	.0
98	27	.09	4	.03	18	.11	3	.06	1	.02	1	.03	2	.05	—	—
99	5	.02	—	—	03	.02	—	—	1	.02	—	—	—	—	—	—
Tot	31,218	100.02	11,561	99.98	16,443	100	9,500	99.97	5,602	99.97	4141	100.00	4,102	99.96	1149	100.